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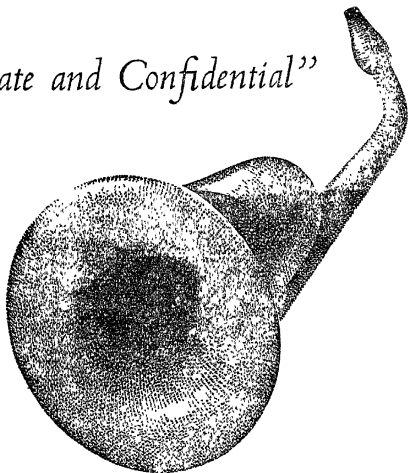
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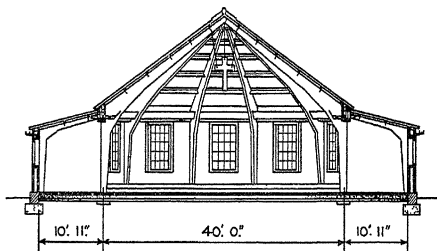
Air is necessary both to keep a fire alight and to maintain life. Though this important fact has been known for thousands of years, it was an English chemist and physician, John Mayow,

who first proved by practical experiments that only a part of air supports life and that there is a great similarity between breathing and burning. This part of the air, which we now know to be oxygen, Mayow called the "nitro-aerial spirit". He kept a mouse in a jar of air closed by a bladder and observed that the bladder bulged inwards probably with the contraction of the air inside as the mouse used up the oxygen. He also observed that a mouse alone in a closed jar lived twice as long as a mouse kept in a jar together with a burning lamp, showing that both mouse and lamp were using up the same part of the air.

Though Mayow produced some remarkably shrewd theories on chemical affinity and was one of the first chemists to explain how nitric acid is produced by the action of sulphuric acid on nitre, his reputation rests on his work as a practical experimenter. He was born in Cornwall in 1641 and entered Wadham College, Oxford, in 1658. He died at Bath at the early age of thirty-five, a few months after his election to the Fellowship of the Royal Society. John Mayow, English physician, was one of several chemists who helped to solve the riddle of combustion—one of the most fundamental reactions in chemistry.



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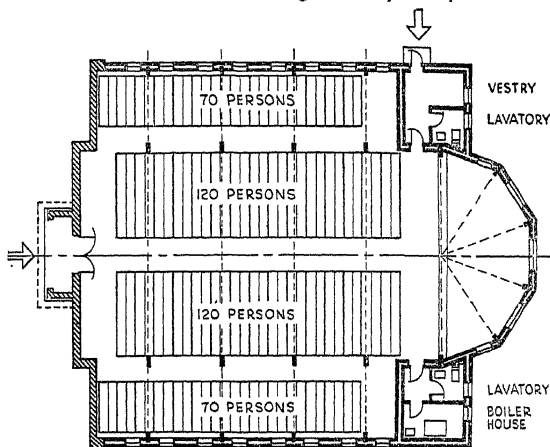
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Summer 1949



Vol. II No. 3

PARLIAMENTARY AFFAIRS

OF THE HANSARD SOCIETY

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HANSARD SOCIETY NEWS

by STEPHEN KING-HALL

Chairman of the Council and Honorary Director

THE progress of the Hansard Society movement cannot be expected to continue without set-backs, and I have to report two events of a disappointing character.

The first concerns our hopes of purchasing a house as headquarters for the Society. After long search we found premises which were suitable. Our national appeal raised approximately £8,000 which was not far short of the purchase price. The Minister of Health granted an appeal we made to be allowed to use the premises as the Society's headquarters. The house in question is in Catherine Place, Westminster, where many houses are now used as offices. We then applied for a licence to the L.C.C. (under the Town and Country Planning Act) and were only granted a licence for a period of six years, at the end of which period, unless the licence were renewed, the house would have to be used for residential purposes. This restriction—in the opinion of our advisers—substantially reduced the value of the property and made it improper for us to pay the price which we should have been justified in paying for an unrestricted freehold.

This event has been a severe blow to our plans. I cannot over-estimate our need for headquarters. Frankly, we are housed in inadequate accommodation placed at our disposal at a low rent by a publishing firm as a contribution to the work of the Society. Our landlords need the premises we occupy and we need more space and a proper headquarters at which to receive visitors, hold small meetings and house our library. What is to be done?

We have resumed the hunt for premises. We need at least 2,000 square feet—preferably in the form of a small house in the Westminster area. One line of attack is to raise more

money, for if we had £20,000 we could probably find what we need and let part of the house. It has been a great disappointment, but in the circumstances there is nothing more to be done except to keep on trying to find headquarters and to appeal to members to help us in any way they can.

The second set-back concerns the Hansard Society of Canada. In February I proceeded to Toronto at the invitation of the Canadian Society, in my capacity as their Honorary Adviser, in order to look into their affairs. After examining the position I reached the conclusion that the membership of the Canadian Society was too small to support the expenses of an office and secretary in Canada. In its one year of life the Canadian Society had done excellent work. It had greatly increased interest in the Canadian *Hansard*, it had stimulated the formation of discussion groups, and it had conducted an extraordinarily successful Youth Conference on Parliament which received most favourable notices in the Canadian Press. But none of these activities had produced money, and it became clear that the Hansard Society of Canada—bearing in mind the technical difficulties of administration of any national society in that Dominion, difficulties chiefly due to the great distances—had been founded with insufficient capital.

To continue the Society would have led to financial disaster, whereas on my arrival I ascertained that the funds in hand plus a donation from Mr. Rupert Bain (a member of the Canadian Committee) would enable the Society to be closed down in a solvent condition. I therefore recommended that the Society be wound up and that existing members be offered the option of transferring to the books of the Hansard Society. I travelled to Montreal, Ottawa and Toronto and made personal contact with about one-fifth of the Canadian members. They all agreed that the course proposed was the best open to us. A resolution to this effect was carried unanimously at a General Meeting of the Society held in Toronto. In order to complete this story it should be mentioned that, through a fortunate delay, the Canadian Society had never been legally and formally constituted.

A further very interesting point emerged as a result of this

episode, and one which in my judgment will prove to be of great value to the future of our movement.

An examination of our rules shows that there is nothing in them to indicate that the Hansard Society is a British society. We have always welcomed as members those foreign nationals who wish to support the work of promoting *the institution of Parliament*, and indeed our membership includes such people as His Excellency President Einaudi of Italy, several Indian Premiers, several French, Danish and other western European personalities and politicians, and universities, schools and individuals in all the Commonwealth countries and the British Colonies. A glance at the recent new members on pages 207-8 bears out this point. We now expect an influx of members resident in Canada. Should we not, therefore, think of the Hansard Society as a world society operating admittedly most actively in Britain where its headquarters are situated, but a society looking to the day when it will have branch offices in other lands staffed by persons recruited locally, and with local committees, depending upon a central council whose membership would be elected (as it is now) by the whole body of members? If this view is correct, it is a mistake to attempt to found autonomous sister societies. Furthermore, our work is international and cuts across frontiers, for the cause we exist to promote is world wide.

I write these words before I have been able to lay these considerations before the Council, but I submit them for consideration on my own responsibility. I do so as an introduction to the information that in Chicago, Washington and New York I found great interest in our work and recruited a number of members, including some Congressmen and members of the State Department. I am of the opinion that we should have no difficulty in adding a considerable number of representative U.S. citizens to our membership. In this connection it is worth noting that 38 American Universities subscribe to our Journal or are members of the Society.

The German Visits. These visits are suspended at the moment of writing but there have been two visits since the last issue of this journal appeared. The following German

political leaders have been the guests of the Society at the request of H.M. Government:

Dr. Rudolf Amelunxen, Minister for Social Affairs, North Rhine-Westphalia (Centre Party); Dr. Thomas Andresen, Deputy Chairman of the Christian Democratic Union in Schleswig-Holstein; Frau Dr. Theanolte Bähnisch, *Regierungspräsident* for Hanover (Social Democratic Party); Herr Peter Blachstein, Political Secretary of the Social Democratic Party in Hamburg; The Rev. Adolf Cillien, Chairman of the Christian Democratic Union group in the Lower Saxony *Landtag*; Herr Walter Damm, Minister of Social Affairs, Schleswig-Holstein (Social Democratic Party); Herr Werner Jacobi, Minister for Fighting Corruption in Economic Life, North Rhine-Westphalia (Social Democratic Party); Herr Kurt Knodt, Chairman of the Dillenburg District Council in Hesse (Social Democratic Party); Herr Alfred Kubel, Minister for Health and Social Welfare, Lower Saxony (Social Democratic Party); Frau Kathe Lange, Vice-Chairman of the Hamburg Senate (Free Democratic Party); Herr Eugen Lechner, Parliamentary Secretary to the Ministry of Health and Social Welfare, Schleswig-Holstein (Social Democratic Party); Dr. Heinz Lücke, Mayor of Uelzen and a member of the Lower Saxony *Landtag* (German Party); Herr Karl Meitmann, Chairman of the Social Democratic Party in Hamburg and a member of the Hamburg Senate; Dr. Jens Nydahl, *Landesdirektor* for Schleswig-Holstein (Social Democratic Party); Herr W. M. Rademacher, Chairman of the Free Democratic Party, Hamburg; Dr. Bernhard Reismann (Centre Party), member of the North Rhine-Westphalia *Landtag*; Professor Dr. Karl Schiller, Senator for Economics and Shipping, Hamburg (Social Democratic Party); Dr. Walter Schreiber, Chairman of the Christian Democratic Union in the Berlin City Assembly; Dr. Georg Strickrodt, Minister of Finance, Lower Saxony (Christian Democratic Union); Baron Achim von Beust (Christian Democratic Union), a member of the Hamburg Senate and Chairman of the Christian Democratic Union Youth Group in Hamburg; Frau Dr. Wuesthoff, President of the *Frauenring* in the French Zone.

As in the past I want to express my thanks to the Ministers, officials, Members of Parliament and others who gave generously of their time to help our German visitors.

Membership. New members during the period January to March numbered:

Individual Members: 89

Corporate Members: 17

Among the new members were:

Abbey School; Arnos Secondary Modern School; Associated Electrical Industries Ltd.; Australian National University; Max Beloff; Bermondsey Labour Party; British Industrial Plastics Ltd.;

Dame Elizabeth Cadbury; Lady Clayton; Director of Education, Jamaica; Senator Paul Douglas; Sir Alan Ellis; Sir William Haley; Helston Liberal and Unionist Association; Information Office of the Government of India in Singapore; Senator Estes Kefauver; Sir Ben Lockspeiser; Lycée de Jeunes Filles, Nice; Primrose League; H.R.H. Prince Tungi of Tonga; Prior's Field School, Godalming; H.R.H. Queen of Tonga; St. Paul's School; Superheater Co. Ltd.; Professor K. Takashi Itoh of Tokyo.

Publications. The sale of our publications continues to be fairly satisfactory. We have sold our first printing of *Papers on Parliament*, but a reprint will be available by the time this journal reaches you. It is a useful little book and has been favourably reviewed. It costs 6s., but members of the Society receive the usual discount of $33\frac{1}{3}$ per cent.

There is a steady demand for English copies of the third edition of *Our Parliament* by Strathearn Gordon. The French and German editions are now exhausted, but the Spanish edition is at present being distributed. An Italian edition is in course of preparation, and negotiations are in hand for Chinese and Japanese editions. We can supply single copies or bulk orders of the English edition, price 8s. 6d. (5s. 8d. to members of the Hansard Society).

We still have about a hundred copies of *The Independent Member of Parliament* by Harold Nicolson, price 1s. (8d. to members). The article on the Palace of Westminster on pages 259-273 of this issue has been reprinted as a pamphlet and costs 1s. (8d. to members).

Will members please draw the attention of any libraries where they have influence to the existence of the bound volume I (1947-48) of *Parliamentary Affairs* of which there are only a limited number of copies. This book will be of great value in 25 years' time. It costs 15s. (10s. to members). We can also supply copies of the index for the first four issues, price 1s. *Parliamentary Affairs* now goes to most countries in the world. Subscriptions have reached us during the past three months from Tel Aviv, Warsaw, Belgrade, Chicago, New York, Hamburg, Alberta, and Iowa. Copies of the journal have been included in British Council exhibitions in Norway, Portugal and Greece. The Central Office of Information reprint some of our articles in their foreign language publi-

cations. German citizens can now order *Parliamentary Affairs* and pay for it in marks through Ausland-Zeitungshandel W. E. Saarbach, Köln-Junkersdorf, Frankenstrasse 14, Germany. I can now announce that the first issue of the next volume (Winter issue, 1949) will be larger than usual and will be mainly devoted to various aspects of American government. Distinguished American and British authorities on the subject have agreed to contribute articles, and I expect a heavy demand for this issue from the United States. May I urge prospective advertisers to book space at once.

Overseas Visitors. I conclude this news about the work of the Hansard Society during the past quarter by mentioning three episodes which illustrate the varied nature of the day to day work of the Society.

Example I. We arranged for Mr. R. W. Perceval, a Clerk in the House of Lords, to lecture on "How Britain is Governed" to a group of fifty European doctors and social workers brought to London by the United Nations International Children's Emergency Fund.

Example II. We were asked to provide a lecturer on "The Relationship of Central and Local Government" for one hundred teachers from the Commonwealth. We arranged for Mr. Eric Fletcher, M.P., to give this lecture.

Example III. The Deputy Speaker of the new Legislative Assembly of Malta, Mr. Joseph Attard Bezzina, visited this country under the auspices of the British Council. He visited the office of the Society and we arranged for him to meet Major Milner, M.P. (Deputy Speaker) and Mr. E. A. Fellowes (Clerk-Assistant of the House of Commons).

We have to turn down many requests of this nature, and shall have to do so until the happy moment arrives when we shall have adequate premises and that modest income of £10,000 per annum which we need for our work.

Will existing members please recruit new members and bear in mind that the annual subscription of one guinea can be paid by United Kingdom residents in the form of a seven-year covenant, thereby almost doubling the value of the subscription to the Society.

THE BIRTH OF A BILL

by the Rt. Hon. R. A. BUTLER, M.P.

(As Minister of Education, Mr. Butler was responsible for piloting through the House of Commons the Bill which became the Education Act of 1944)

BEFORE the opening of Parliament in 1864 the Prime Minister, Lord Palmerston, was asked what reference should be made in the Queen's Speech to "domestic affairs and legislation". He answered, "rubbing his hands with an air of comfortable satisfaction: 'Oh, there is really nothing to be done. We cannot go on adding to the Statute Book *ad infinitum*. Perhaps we may have a little law reform, or bankruptcy reform; but we cannot go on legislating for ever' ". Three years later Walter Bagehot, in a classic exposition of the realities underlying our constitutional forms, listed the functions of the House of Commons and, while admitting that it would be preposterous to deny its great importance, chose nevertheless to mention the function of legislation last. Such were views held eighty odd years ago, just before the opening of the Disraeli-Gladstone era of reform. Today there is still a considerable body of opinion which would agree with Bagehot that legislation is a less vital and fundamental function of Parliament than either the maintenance, criticism and control of government or the provision of a sounding-board for public opinion. But whatever our constitutional theories may be, Lord Palmerston's remarks can provoke only a smile. For in our day it appears almost axiomatic not only that Parliament can but that it will in fact go on legislating for ever. In the decade before the outbreak of the Second World War six hundred Public Bills received the Royal Assent and were placed upon the Statute Book. There have been about the same number in the past decade.

What happens to these Bills at the various stages of their passage through Parliament may or may not be general knowledge, but this information is readily available in a very

great number of both learned and popular treatises, and there is no necessity to repeat it here. But when a new Bill is presented to Parliament and is formally read a first time, it already has a history. Bills do not spring like Athene of old, fully fashioned from the head of some ministerial Zeus. They are conceived, they have an embryonic stage, and they are born. For what reasons and in what manner these things take place are proper questions to ask. But they are not simple to answer, for the reasons are manifold and the manner complex.

Some Bills are almost permanent features of the Parliamentary scene, cropping up year after year. The Finance Bill and the Consolidated Fund Bills, for example, are modern legislative symbols of that ancient financial power from which arose the predominance of the House of Commons in the Constitution. The ordinary work of government could not proceed without these measures. It is laid down by the Bill of Rights, 1689, "That the raising or keeping of a standing army within the kingdom in time of peace unless it be with consent of Parliament is against law", and so every year that consent must be sought in the Army and Air Force (Annual) Bill. The most controversial measures of any session naturally have their origin in the particular doctrines of the political party in power. The tariff measures introduced after 1931 and the nationalization Bills of the last few years come under this heading. Other major legislation derives from government recognition that the time is ripe for another step forward in that social reform in which we lead the world. Bills of this kind usually command, by their very nature, much wider support, as was so with the Bill which became the Education Act, 1944. Again, all Departments tend to accumulate from experience a list of usually smaller reforms which are desirable but for which it is not easy to find time in crowded Parliamentary sessions. Every year a good number of these "Departmental" Bills find their way on to the Statute Book, either by themselves or as part of some larger and more comprehensive measure sponsored by the Department concerned. But governments, like all mankind, are creatures of circumstance, international and domestic, and a fair proportion of the Bills they present to

Parliament can be neither foreseen nor forecasted. In recent years governments have introduced Bills to give statutory authority for financial provisions connected with Marshall Aid, for enabling the trustees of the British Museum to lend a copy of Magna Carta for exhibition in the Library of Congress of the U.S.A., and for indemnifying a Secretary of State who had issued regulations establishing a National Fire Service without having laid them before Parliament. These are "occasional" Bills, and the occasions, it will be seen, vary considerably. Finally we should not, in Disraeli's words, forget "an influence too much underrated in this age of bustling mediocrity—the influence of individual character". Even in our day a Bill may originate in the mind of a Minister. More demonstrably it may originate in the mind of an active Private Member. For while most legislation is introduced on the government's behalf, Private Members' time, whose reintroduction has received such a general welcome, has seen in the past the start of several notable measures of which the Marriage Bill (later called Matrimonial Causes Bill) associated with the name of Sir Alan Herbert, is the most celebrated example.

Private Members' Bills, however, and Private Bills—that is Bills relating to matters of individual, corporate or local concern—are both subjects in themselves. Here we must be content to discuss only Public Bills introduced by the Government. These are, of course, the vast majority. We have seen how they may originate. Now we must examine how the idea of a Bill or the need for a Bill is translated into a document which is in effect the draft of a proposed Act of Parliament.

Government in Britain is government by consent of the governed and we have developed as a basis for a very large part of our legislation numerous techniques of public inquiry and consultation. Sometimes this prior consultation will be a matter simply for Members of Parliament, and this is especially true if it is a constitutional change which is anticipated. A Speaker's Conference now normally precedes most changes in electoral law. Two Select Committees of the House of Commons reported before the Ministers of the Crown Bill, making provision for ministerial salaries and limiting the number of

Ministers sitting at any one time in the Commons, was introduced in 1937. The Government of India Bill, which became an Act in 1935, largely followed the recommendations of a Joint Select Committee of Lords and Commons on Indian Constitutional Reform. Other major problems may be referred to a Departmental Committee consisting of experts appointed by the head of the Department concerned or, for weightier or more contentious matters, to a Royal Commission appointed by royal warrant, again from experts and men and women with long records of public service. Thus a recent court case, which greatly stirred public conscience, emphasized the pressing need to re-examine the social problem of the child lacking parental care. A Departmental Committee—the Curtis Committee—was set up, and its main recommendations formed the substance of the Children Bill which passed into law in 1948. At the moment of writing the report of the Royal Commission on Population is about to be published. No single long-term problem is more important to this country today than the threat of a shrinking population, and the report will assuredly be followed in due course by legislation as well as by administrative action. Again, there are a whole host of more permanent consultative and advisory committees appointed at the discretion of a Minister or because of some statutory obligation on him, and their recommendations are often the basis of legislation. This is especially true of the very numerous committees which have been associated with the Ministry of Health. Even where there is no formal committee appointed or in existence, consultation with interested bodies will almost always precede an important Bill. Major changes in the law relating to education, for example, will involve discussion with education authorities, teachers' associations, representatives of religious communities, and parents also. Normally a committee will be expected simply to produce proposals, and similarly consultations will take place on the basis of draft proposals. But there are precedents both for a committee to be asked to produce a draft Bill and for the publication of draft Bills for criticism. Lastly, we must remember a different category of Bills where mutual interest,

convention or the terms of the Statute of Westminster, 1931, require the assent of other Dominions. Thus the Dominions were consulted before the introduction of His Majesty's Declaration of Abdication Bill in 1936, though two of them introduced their own legislation dealing with this.

Every Bill presented to Parliament must be approved by the Cabinet. Where any big piece of legislation is involved the Minister concerned will prepare with the senior officers of his Department a written memorandum which he will then circulate to the Cabinet. If the measure involves considerable expenditure, as most big measures do, the Chancellor of the Exchequer may at the same time circulate a memorandum on these financial implications. The issues involved may then be referred to an *ad hoc* committee which will prepare and circulate a detailed report to the Cabinet. If the Cabinet then approves the main lines of the proposed measure, it will authorize the drafting of the Bill and sometimes the *ad hoc* committee will remain in existence to supervise this work. Then the Bill will come before a standing committee of the Cabinet, known as the Home Affairs Committee. Here, with the help of senior officers of the Department concerned who may attend, technical difficulties are thrashed out, legal aspects are discussed with the Law Officers, and the views of other Departments are examined. The minutes of this Committee containing its recommendations are circulated to the Cabinet, by whom the Bill is finally approved. To the man in the street this may seem an unduly elaborate method of reaching decisions. It is, however, a method which, like all our governmental techniques, has not been conceived in theory, but has been evolved to meet practical needs in a practical way. More than lack of space precludes the giving of specific detailed examples of this process. The inner workings of contemporary Cabinet government are very properly secret; also they differ to some extent from occasion to occasion and Ministry to Ministry so that no ex-Cabinet Minister can be quite certain that his information is not a little out of date.

A Bill represents the draft of an alteration or a restatement of law. It must therefore be written in the language of the law

to be interpreted by lawyers. This may be said with assurance in all one's cool and reasonable moments; yet there can be few non-lawyers in public life who have not once bitterly doubted it when confronted in a Bill with some more than usually incomprehensible passage of legal English. Most Government Bills are drafted in the Office of Parliamentary Counsel to the Treasury.¹ This was established by a Treasury Minute in 1869, though the title dates from earlier drafting arrangements made by William Pitt at the close of the eighteenth century. The staff consists of First and Second Parliamentary Counsel, five counsel and two deputy counsel, and ten assistant draftsmen of whom three are senior men. The initial formal instruction to draft a Government Bill is sent by the Treasury to the Parliamentary Counsel, and is not received direct from the Department concerned. More specific instructions from the Department may, however, accompany the formal Treasury instruction, and in any case, unless the Bill is of a very simple or minor character, there is a preliminary consultation with a senior official of the Department. With a very important and complex Bill the process of drafting may be a long one extending over several months. Sir Courtenay Ilbert has described how "it is often necessary to prepare memoranda stating the existing law, tracing the history of previous legislative enactments or proposals, or raising the preliminary questions of principle which have to be settled. The first draft may take the form of a rough 'sketch' or of 'heads of a Bill'. The original draft, whether in the form of a Bill or otherwise, is gradually elaborated after repeated conferences. . . ." Very many Bills involve the repeal or amendment of some of the "previous legislative enactments" that Ilbert refers to, and for anyone with a sense of history the Schedule listing these enactments is not infrequently the most interesting part of the Bill. A glance through the public Acts of the past few years show that modern Bills have necessitated the repeal of part of the Act originally establishing the position of the Bank of England in 1694, of part of the Act of 1829 under which Peel gave us the London

¹ See *The Making and Form of Bills* by one of the Parliamentary Counsel to the Treasury, *Parliamentary Affairs*, Vol. II, No. 2, Spring 1949.

"Bobbies", who were called after him, and the whole of an enactment entitled "The King's Tenant his Debtor" passed in the twenty-fifth year of the reign of Edward I—1297. Parliamentary Counsel remain responsible for supervising the form of the Bill even after it has been presented to Parliament. Scottish Bills, we may note, are drafted by counsel in the Lord Advocate's Department.

"The massacre of the innocents" is no longer a feature of parliamentary life. It was wont to occur when, at the end of a session of Parliament, Bills which could not be passed before the prorogation were dropped *en masse*. Now customarily the Home Affairs Committee of the Cabinet meets at the beginning of the session, and, usually on the basis of a rough time-table drawn up by the Chief Whip, recommends Government Bills for the session for the approval of the Cabinet. What this really means is that the "innocents" are massacred in the decent privacy of a Cabinet committee before which Departmental heads champion the particular Bills they hope to introduce.

These, then, are some of the principal features in the process we have called "the birth of a Bill". And yet, having set them down on paper, one is immediately aware that as far as any really big Bill is concerned—a Bill, that is to say, effecting some major adjustment in our national life—only a part, and perhaps not even the most important part of the story has been told. It is not only that a catalogue of fact and an explanation of machinery can give no idea of the ordinary human side of the picture: the intense activity throughout the Department promoting the Bill, the burden of work on the Minister and his senior advisers, the loss of what vestige of ordered routine can ever be left the public servant. It is something transcending all this that simple exposition can never properly reveal. For the birth of a major Bill represents both an act of creation and an act of faith. Sometimes, it may be, the creation turns out to be a poor thing, and the faith misplaced. Of every human endeavour that is true. But few servants of the public, I dare avow, have been intimately connected with the birth of a major piece of legislation without being fired by a tremendous

uplifting enthusiasm for the work they were trying to do. And not only for the work they were trying directly to do. Here one must tread cautiously, for no less an authority than Professor Brogan has assured us that it is true political science and true realism to assert with Burke that "no reasonable man ever did govern himself by abstracts and universals". Perhaps that is so—or at least for most of the time. Yet reasonable men in Britain, even when they are immersed in the intricacies of legislative proposals, even when they are worrying perhaps for days over some tiny detail of a problem possibly not demonstrably connected with the main purpose of their Bill, are none the less conscious, now dimly, now with the utmost clarity, of one "abstract", one "universal". It is one they like to think has inspired our men of State throughout the seven centuries in which measures have been put on our Statute Book and will go on inspiring them in all the years to come. Aristotle best expressed it when he wrote: "The State was formed that men might live, but exists that they may live nobly."

Though we may differ about means, this is the end to which we all work. And if in truth we cannot "make men good by Act of Parliament", yet Act of Parliament is one way we have found to give them the chance to be better.

LEGISLATION IN THE EIGHTEENTH CENTURY

"If we look back to the greatest statesmen which the country has ever produced—to those whose names are most regarded for the genius and ability which they displayed in the direction of affairs—if we look back to Sir R. Walpole, to Lord Chatham, to Mr. Pitt, and to Mr. Fox—if we refer to the administrations of those great men, and then cast our eyes on the statute book, for the purpose of seeing what laws they have placed there, and what were the legislative measures they recommended and carried through Parliament, I fear we shall meet with but a meagre return, indeed, for our labour. It is not, that those Ministers did not answer all that was required of them in their time—it is not that they were not fully equal to the conduct of affairs, according to the principles they professed—but that the usages of the constitution did not then require, that those at the head of the Government should bring forward legislative measures."

Lord John Russell, leader of the House of Commons, speaking on a resolution of no-confidence in Melbourne's Government on 4th June, 1841. (*Hansard*, 3rd series, vol. 58, col. 1195). The resolution of no-confidence was carried by 312 to 311, and Parliament was dissolved.

THE OFFICIAL REPORT: MR. SPEAKER'S RULING

READERS of this journal may have wondered what is the correct way of describing in simple language the publication which has inscribed on the title page the words "Parliamentary Debates (Hansard) House of Commons Official Report". To remove any confusion we print below two extracts from Question Time in the House of Commons last February.

16th February, 1949.

Lieut.-Colonel Elliot: Mr. Speaker, I desire to draw your attention to an entry in the Official Report to-day which I think will require correction. It is in Column 1018, and the entry is made there, about three parts down the column, "Amendment negatived"... The question, I think, was put by the Deputy-Chairman and was agreed to by the Committee, and the Amendment was, in fact, made but the Official Report indicates that the Amendment was not made.

We are fortunate in having also *The Times* report of this which gives, I think, the accurate statement. It says:

"The first amendment, permitting a landlord to appear before a tribunal, was agreed to. The second amendment was negatived by 269 votes to 97."

I think the confusion may have arisen owing to the growing practice of including a number of Amendments in one discussion, and subsequently dividing upon them separately. . . .

Mr. Speaker: I can assure the right hon. and gallant Gentleman that the mere fact that he has raised that point will automatically put the matter right. I think the right hon. and gallant Gentleman said that it was a mistake in the Official Report. *Hansard* is not an Official Report. It is, I hope, as accurate an account of our proceedings as possible. The

Official Report is one which it is my duty, the House remembers, by Resolution passed at the beginning of every Session, to peruse daily. I did peruse the official report, which is the accurate one, and it says "Another Amendment made", which is the correct wording. Therefore, officially the Amendment is correct and in order, and I hope that what I have said, and what the right hon. and gallant Gentleman has said, will ensure that the matter is put right in *Hansard*.

Earl Winterton: May I call your attention, Mr. Speaker, to the fact that there is obviously a mistake in the description of *Hansard*, because it is always published as the "Official Report". In view of what you have said, perhaps you will call the attention of the Editor to the fact that it is not the Official Report?

Mr. Speaker: I am obliged to the noble Lord for drawing my attention to that fact. There is no question about it. *Hansard* is not the Official Report. This is the official record—the Votes and Proceedings—which I have in my hand.

17th February, 1949.

Mr. Churchill: May I ask you, Sir, whether you have anything to add to the statement which you made yesterday concerning *Hansard* and the Official Report?

Mr. Speaker: I really have very little to add. It is one of the difficulties of the English language that one word can really have two shades of meaning. That is perfectly true of the word "official".

Hansard is the Official Report of Parliamentary Debates. That means, it is a report by gentlemen, and in one case by a lady, who have the very difficult job of reporting what is said in this House. It is a report by people who are officially appointed as part of the staff of the House of Commons. That is the extent of the official position of *Hansard*. . . It is official in this respect, that it is the report of officers who are appointed by this House to report what is said in the House.

But if we are going to take "official" in another sense . . . it would be perfectly simple merely to ask the question if the

Official Report, which was in the Votes and Proceedings, showed whether the Amendment had been passed. *Hansard* said it had been negatived. The only thing was to ask that the words "agreed to" should be substituted to show that the Amendment had been carried.

However, let us go a little bit further than that, because I want to point out that *Hansard* has no effect whatsoever on the proceedings of this House and no authority whatsoever. Neither is *Hansard* accepted in the courts of law. I am advised that the courts take judicial cognizance of the order and course of proceedings in Parliament. Under the Evidence Act, 1845, copies of the Commons Journals are admitted in evidence without proof of the printing. Copies of *Hansard*, however, are not so admitted as evidence of facts therein stated.

May I add, as further proof of that, that there was a case in 1917 where a common informer sought to recover a penalty from a Member of the House on the alleged ground that he had sat and voted whilst disqualified. The learned judge refused to allow the Member's presence in the House to be proved by the publication of what he called "the Official Debates of the House of Commons". Witnesses had to be called in to prove his presence in the House. This explanation, I hope, will prove the two shades of meaning of the word "official" and the meaning which I put on to it when I was replying yesterday to the right hon. and gallant Gentleman.

Mr. Henry Strauss: Is it not completely accurate to say that the document you referred to yesterday—the Journal—is the official record which is received in courts of law as evidence of the acts of the House with which the courts are generally concerned, such as Amendments, Divisions and so on, but that, in so far as anything is a report of what is said in the House, *Hansard* is that report?

Mr. Speaker: *Hansard* is that report but it is not accepted in the courts of law. That is the advice I have received.

Sir Peter Macdonald: In view of the fact very large numbers of people and businesses in this country subscribe to *Hansard*, is it not true to say that *Hansard* is a pretty accurate

record of the Debates in this House and is called the Official Report?

Mr. Speaker: I should like to say to the Hon. Member that I agree that *Hansard* is extraordinarily accurate. It very seldom makes a mistake. It is not any ordinary reporter who can become a reporter on *Hansard*. He has to write down the words of some Hon. Members here who speak very, very fast. He has not only to do that; he has to be able to name the Member, to say who is speaking and also to have a good knowledge of procedure, to know whether an Amendment has been withdrawn or accepted or what has happened to it. It is not every reporter, however skilled he may be at shorthand, who can become a *Hansard* reporter, and I should like to pay my tribute to them.

Hon. Members: Hear, Hear.

Mr. Chetwynd: Would it not remove all doubt if the word "official" were dropped from the front page of the Parliamentary Report?

Mr. Speaker: I think not. I have looked into it very carefully. "Parliamentary Debates, Official Report", I think, really means Parliamentary Debates—what has been said, and not procedure.

Mr. Churchill: Your explanation, Mr. Speaker, makes matters very clear. I should like to say we all have great confidence in *Hansard*. Its early publication is an immense convenience to Members, who are glad that there is, as it were, a further check, in case large questions of law are involved.

Mr. Gallacher: May I, as one who does his very best to speak English, pay tribute to *Hansard* for the way they report my speeches?

Mr. H. Strauss: Is it not a fact that, while *Hansard* could not in any event be accepted as evidence in a court of law on account of the rule against hearsay, no court has ever raised the least objection to it being described as the Official Report?

Mr. Speaker: I do not think I have raised any objection to that. I have merely pointed out that one report is more official than the other.

THE LIBRARY OF CONGRESS

A STATEMENT WITHOUT A CONCLUSION

by DAVID C. MEARNS

(Mr. Mearns has been with the Library of Congress for thirty years and has been Director of the Reference Department since 1943.)

IF the uneasiness which besets our days has produced new cynics and new shames, it has, at the same time, displaced some ancient sceptics and replaced the vanities of neglect with the realities of requirement. Intuition, for example, as a basis for decision lies buried beneath the rubble of Berlin. Instead, stark and homely verities, masked for a time by sentimentality and honoured into invisible impotence, have reassumed their rightful contours and their proper dimensions. It is clearer now than in the past it was ever clear that there is nothing so important as the commonplace, that the future will be fashioned by the success or failure of information combined with understanding. These two forces, won or forfeited, heeded or ignored, balanced or imbalanced, applied or unexploited, developed or destroyed, are inseparable from the fortunes of the race. From this acceptance is derived a compelling interest in institutions dedicated to enlightenment.

The Library of Congress, at Washington, D.C., was founded nearly a century and a half ago to provide members of the national legislature with materials essential to responsible action. It provides such materials today, its purpose is the same purpose, but modern invention has multiplied the media of knowledge, and an altered civilization has imposed increasing obligations on public office. As long as the United States occupied a relatively inconspicuous place in the world's affairs, as long as America was isolated by its bordering seas, as long as the principal objects of legislative concern were domestic objects, as long as representative government implied advocacy of, or opposition to, issues as simple as they were

familiar, as long as books were few and critics were competent to distinguish between them, the Library grew by processes of calculable attrition. But as the land was peopled, as derivative cultures gave way to indigenous traditions, as provincial society became a republican society, as intellectual timidity was overcome and discredited and finally superseded by assurance and example, as independence was followed by integration, as common perplexities and common aspirations found expression in a national literature, the Library of Congress emerged as a national library.

It emerged as a national library for reasons both tangible and intangible. Among the tangible reasons must be reckoned such factors as its establishment as the single depository for literary property, its encouraged growth, its mandatory participation in national and international relations, its maintenance from national investment, its far-flung exchanges, its directed services; among the intangible reasons for its emergence as a national library it is possible to adduce its hold upon the popular imagination, the notable and frequently munificent gifts it has received from private benefaction, its recognition as a national resource and, perhaps most significantly, the gradual realization on the part of Members of the Congress, that to be fully informed they must represent an informed constituency, that to be, in the best, the most exclusive, sense the Library of Congress it must be also the Library of the whole American community. Thus Congress, while preserving its own convenience and mindful of its own primary claims upon it, has, conditionally at least, extended the Library far beyond its old, out-moded concept. Because its powers are arbitrary Congress declines to exercise them; because mere permissiveness is halting it insists on sharing its facilities; because, in the United States, the people govern, whatever is government's must be the people's too.

Out of these considerations, pronounced and tacit, the Library of Congress has become the largest library in the world. Indeed its very size has sometimes obscured its actual design. To the historian, for example, intent upon the study of source materials as represented by the private correspondence of

American statesmen, military commanders, social reformers, business men, poets, playwrights or magicians, the Library of Congress appears to be *his* Library. The student who finds inspiration in the holograph scores of great composers or in listening to a public concert presented in the Library's auditorium may come to think that the Library exists for music. The blind reader, whose book, transcribed in Braille or reproduced in sound, is issued from a distributing library acting on behalf of the Library of Congress, may confidently conclude that the nation's Library is a collection organized only for the service of the handicapped and the afflicted. The lawyer, with characteristic conceit, regards the institution and all the works within it as a professional facility. The scientist, driven to desperation by the difficulties inherent in mastery of the proliferated and refractory reports of his craft, considers the Library in terms of its preoccupation with bibliographical control. And so it goes, through every form of material, and every discipline of learning, and every type of reader, the sense of proprietorship, whether collective or individual, stemming from the encyclopedic coverage of the collections and the absolute freedom of access to them.

As to the nature of the collections, it may be said that they consist of books and pamphlets, broadsides, manuscripts, maps, microfilms, motion pictures, music, newspapers, periodicals, phonograph recordings, photographs, prints and other categories, and that currently they are received at a rate of more than 7,000,000 pieces annually. Some are acquired through the operations of copyright, others (in excess of half a million) through purchase, others through transfer from the several agencies of government, others (about a quarter of a million) through gifts from organizations and private citizens, but the principal sources of accession are the "treaties", carefully negotiated and formally observed, which are usually described under the head of "exchange". Many of the States in the Federal Union are instructed by their statutes to send copies of official publications to the Library of Congress; the Department of State of the United States has arrived at "international agreements" with the foreign offices of other Powers

for the interchange of documents in the Library's interest; the Smithsonian Institution, acting as agent for the Library, secures for it (by bartering its own issuances) the transactions, proceedings, journals and monographs of learned societies and academies throughout the world; and the Library itself maintains a number of direct and similar arrangements with corporate bodies of various sorts. Implementing the Library's programme, the Superintendent of Documents is directed to provide the product of the Government Printing Office in sufficient quantities to secure a considerable and equitable return.

By midsummer, 1948, the Library possessed 8,387,385 books and pamphlets, 124,619 bound volumes of newspapers, 8,896,597 manuscripts, 1,186,911 maps and views, 71,060 reels of microfilm, 64,451 reels of motion pictures, 1,788,449 volumes and pieces of music, 287,414 phonograph recordings, 1,708,247 photographic negatives, prints and slides, 578,765 engravings, and 624,163 items of miscellaneous character such as broadsides and posters. Its Chinese library was the largest outside the Orient, its Russian library was the largest outside of Russia, its music holdings were unsurpassed, its manuscript resources (including selected transcripts and reproductions of materials in foreign archives relating to America) unparalleled for the study of American civilization, its fifteenth century imprints numbered nearly five thousand examples, its photographs depicted almost every aspect of life in the Western Hemisphere, its maps were believed to chart the globe, its Hispanic-Americana were outstanding in scholarly and in numerical scope, its law library sought completeness, its books were catalogued, classified and arranged in accordance with the highest standards of technical precision, it occupied two buildings equipped with ingenious, mechanical, devices for service, it employed a large, proficient, skilled and devoted staff, and by those Cartesian laws of limitation as demonstrable in institutions as in mathematics, it approached but could not quite reach its goal. As a consequence, complacency is impossible, striving a spur, shortcoming an intolerable humiliation and a danger. For this reason it must constantly adapt

itself and its resources to the changing situations which confront the United States.

Conspicuous among its services are those performed for other libraries throughout the nation. It extends their resources through a system of inter-library loans, and registers their resources in the National Union Catalogue. It engages with them in cooperative undertakings calculated to ensure the acquisition and appropriate allocation of materials important to research. By distributing at cost its printed catalogue cards and the cumulative records of its holdings, it reduces the expense of their operations by more than a million dollars annually. Its technical developments are made available to them through the constant revision of classification schedules and lists of standard subject headings. It sends to them, upon request, the compilations of its bibliographers.

The Library's facilities include a modern Photoduplication Service, where (unless considerations of copyright or conditions of deposit prevent) any item in the Library's collections can be reproduced for a nominal charge, and a Recording Laboratory for making phonographic transcriptions. As a special service to scholars, whose studies involve an intensive use of the collections, more than two hundred small rooms, each furnished with a desk, typewriter table, chairs and a bookcase, are set aside.

But although the Library of Congress is a people's reference library and the libraries' library and a scholars' and specialists' library, it is, as its name implies, first of all and most of all a Congressional and Governmental Library. Materials needed for the prosecution of official projects and the conduct of official business are made available to all agencies of the Federal Establishment; most of the bibliographies issued by the Library are compiled in the first instance in response to governmental request; and, to the extent that conditions permit compliance, it renders a reference service on behalf of the several bureaux. When another agency wishes the Library to undertake a particular, exclusive, and more or less protracted enterprise beyond its routine and fiscal abilities, it is not unusual for the Library to accept a transfer of funds for the

purpose and to carry out the assignment on a contractual basis. There are a number of such contracts currently in force, which, incidentally, include special services to the United Nations and its subsidiary organizations. From time to time the Library details members of its staff to assist the Executive Departments in studies of their departmental libraries and to make recommendations for their organization or reorganization. In addition, the Library takes an active and affirmative part in the cultural relations programme of the Department of State. One of its principal publications, the *United States Quarterly Book List*, is designed to inform the other nations of the world of the most significant contributions made by American citizens to the common heritage of scholarship.

But it is for the use of Congress that the Library fundamentally exists, and the members of the national legislature have a prior claim on every one of its services. Only to the extent that it can satisfy their expectations, and only in terms of their continuing approval, can it discharge any other function. The Library is connected with the Capitol by direct telephone communication, by a pneumatic tube for the transmission of instructions, and by a subterranean conveyor for the mechanical delivery of books. On the first floor of the Capitol, in a chamber once occupied by the Supreme Court of the United States, is the law library, and in each of the buildings where members of the House and Senate have their offices the Library has established stations, equipped with standard reference compendia, for the delivery and collection of materials. Trucks carry books to Congressional residences. In the main building of the Library a special reading room is reserved for Congressional visitors.

The Legislative Reference Service, founded in 1915, and grown from an appropriation of twenty-five thousand dollars annually to an appropriation of half a million, is the chief research reliance of the Legislative Branch. It began as an indexing centre; it continues as an indexing centre for Federal Statutes and State Laws; in addition it prepares and distributes digests of public general bills, briefing the content and provisions of resolutions awaiting consideration and detailing

their status in the legislative process. It presents, in abstract form, the evidence secured at important hearings. It organizes in an extensive file of clippings, the exposition of, and editorial comment on, the more pressing issues of the moment. It assembles material in response to specific requests, identifies quotations, acts as intermediary with other sources of information where anonymity is in the national or personal interest, exercises a jealous guardianship of confidence and good taste, and, within the circumscription of rigid propriety, it counsels, suggests, and explains. Its most notable and distinguishing feature is its complete objectivity. Its purpose is only to *present*, and it follows naturally that it must never *represent*. It takes no sides; it champions no cause; it avoids advocacy. On the contrary, it searches after implication, foreseeable result, and ranges the arguments for adoption in opposition to the countervailing propositions which urge rejection. Such studied impartiality, such meticulous evasion of partisanship or politics is, of course, beyond the limited power of any single individual, however earnest and honest he or she may be. It is attained only through a careful screening process by which preference, predeliction, and unconscious bias are isolated and removed. Heading the research corps are eminent authorities on every important subject of legislative concern. Sometimes they are assigned to chairmen and minority leaders of committees. Occasionally they superintend the inquiries pursued by a committee's investigative personnel. Or, again, they may produce exhaustive and definitive reports for individual Members of the Congress. These may appear as Congressional documents or as public affairs bulletins issued by the Library; but much of the work must necessarily go unidentified. Yet, increasingly it is discernible in the history of our time. The justification, the goad, the compensation, the seeking of the Library on Capitol Hill is identity with the generation which sustains it.



The Library of Congress, Washington

Courtesy: U.S. Information Service



Colonel the Rt. Hon. Douglas Clifton Brown, M.P., Speaker of the House of Commons, addressing Members of the Italian Parliament at Montecitorio, 10th January, 1949

THE BRITISH PARLIAMENTARY SYSTEM¹

by Colonel the Rt. Hon. DOUGLAS CLIFTON BROWN, M.P.
(*The Speaker of the House of Commons*)

THE British Parliament has a life of five years. It can, of course, extend this period, and it has done so in both world wars. The reason is that it was impossible to hold a General Election with so many people away from their homes; men were away fighting and others away from home engaged on war work. This is never likely to happen in peace. This does not mean that every Parliament will last for five years. Few do, and some Parliaments have lasted for some months only. The life of a Parliament depends on the support which M.P.s give to the Prime Minister of the day and his Government. If he fails to receive the confidence of the House of Commons and if there is no one whom he can recommend as his successor, he has the right to ask the King for a dissolution, and this entails a new General Election. For example between 1919 and 1935 there were seven General Elections and seven different Parliaments with an average life of considerably less than three years each. This present Parliament may run its full five years; if so, it will be the first peace-time Parliament to complete its full term for very many years.

The present Parliament consists of 640 M.P.s—of whom Wales provides thirty-six, Scotland seventy-four, and Northern Ireland thirteen. A new law has been passed which reduces the total to about 620, and the object of this law is to equalize as far as possible the number of voters in each constituency with due regard to its territorial character, so giving each vote an equal value. In the new Parliament each M.P. will represent approximately 60,000 voters. All men and women over twenty-one years of age have a vote, provided that their names are recorded on official registers. No one

¹ This article is based on an address given to Members of the Italian Parliament at Montecitorio on 10th January, 1949.

may vote more than once, even if registered in two different constituencies. There is no property qualification.

There is no system of proportional representation and no second ballot. The candidate receiving the largest number of votes is elected M.P., no matter how many other candidates have opposed him. Each candidate has to pay £150 before he can stand for election. If he receives one-eighth of the total votes cast this money is returned to him, but if he does not the money is forfeited. This is to stop frivolous candidatures.

I should add that the expenses of a candidate seeking election are carefully regulated by law, and any infraction of this law involves severe penalties, including the annulment of the election if the winning candidate is found guilty.

The Chamber itself is oblong in shape. At one end sits Mr. Speaker, in wig and gown: in front of him at a fairly long table sit three Clerks in gowns and small wigs, and at the end of this table are two square boxes and the mace.

Government supporters sit in rows in tiers on the Speaker's right hand; the lowest row is reserved for Ministers, and the Prime Minister's place is opposite the box. The table is about two metres wide and four metres long, and on the left hand of the Speaker are grouped the Opposition, with ex-Ministers on the lowest row and Mr. Churchill at the other box exactly opposite the Prime Minister. Beyond the table Government supporters and Opposition Members sit facing each other with nothing between them except a floor space about four metres in width.

Members do not come to a rostrum to speak but do so standing in their places, and speeches are not supposed to be read from a prepared document though notes are allowed. You may have heard the expression "catching the Speaker's eye" and wonder what it means. When a Member has finished his speech and has sat down, all those still wanting to speak stand up and look towards Mr. Speaker who then calls one of them by name; the rest sadly resume their seats, but the one who has been called is said to have caught the Speaker's eye.

The approximate position of parties in this Parliament is as follows:

Government (Labour and Socialist)	..	396
Opposition (Conservatives and National Liberals)	220
Independent Liberals	12
Independents	10
Communists	2

It is worth noting that all these groups are divided not on economic grounds, except for the two Communists; there are found in all the others M.P.s of every class, of every creed, of poverty and of wealth. I think that my country is very fortunate in this respect, but this has only been achieved after many years of political struggle. When I take the Chair, the Mace is laid on the table in front of me, and this means that both sides have laid down their arms and the battle is one of argument and not of weapons, not of fisticuffs, not even of unduly provocative words in debate.

At the beginning of every Parliament and of every annual session the Government give an outline of their programme for the year and this is read by the King, with all our historic ceremony, to both Peers and Commons together assembled. The debate on this announcement lasts for over one week and is ended by a vote of confidence.

Thereafter the Bills sponsored by the Government are introduced and debated in four stages before going to the House of Lords, who have limited powers of amendment or rejection: powers which latterly have been used, I think with general assent, in the spirit of revision and not of opposition.

The stages of Bills put forward by the Government are, firstly, Second Reading (the First Reading is formal and means that the Bill is printed). This Second Reading is a wide debate covering matters relevant to, but not actually contained in, the printed Bill. In further stages the debate is more strictly confined. The Committee stage follows; sometimes with very important Bills this takes place in the House of Commons itself—without the Speaker in the Chair, but with the Chairman of Committees in a lower chair at the

table. Normally, however, the Bill goes to a Committee of about fifty M.P.s who sit in a separate chamber and discuss the Bill in detail, a discussion which often lasts many weeks.

When this stage is finished the Bill as amended is reported back to the House itself with Mr. Speaker in the Chair, and amendments of revision or those which in his judgment are of importance are debated. When these are disposed of, the Bill comes to its Third Reading, when the Bill itself and its reactions are alone in order, and matters which some would have liked to have seen included in the Bill are not in order; this is usually a short stage and the Bill then goes to the House of Lords.

There are other methods of debate which I think are common to all Parliaments: challenges by motions of no confidence by the Opposition, motions on particular subjects of importance, etc. All these are subject to the agreement of the Leader of the House to find time. He is a member of the Government and is responsible for the arrangement of debates and the time allotted.

Now a word about finance because this is subject to a different procedure. I take the budget, which in its initial stages is presided over by the Chairman of Ways and Means with the House in Committee. The budget is introduced by a series of resolutions imposing new or altering existing taxes, and it gives rise to several days' debate. Several weeks after the final approval of the resolutions has been given, a Bill is introduced giving legal form to the proposals and thereafter the Bill takes the normal course described above. In addition, our Standing Orders lay down that twenty-four days shall be devoted to the granting of money to the various departments. This provides a means for M.P.s to discuss in detail the administration of various Ministries.

All these proceedings might well take unlimited time, but we have fixed hours and, unless the House approves a motion for extended time, moved by the Government without any permissible debate, we finish at 10.30 p.m. There are some exceptions to this rule, mostly in financial affairs, but these are normally not prolonged far into the night.

The House of Commons meets at 2.30 p.m. and, after prayers, which last for five minutes, we spend the first hour in Questions to Ministers. These are written down, given to the Clerks, and are printed on the Order Paper of the day, and no answer can be demanded unless forty-eight hours' notice has been given—except for special ones of urgency subject to the Speaker's consent. Question Time is one of the outstanding features of the British Parliament. Questions are governed naturally by strict rules, but nevertheless each Minister has to show by his answers, not only to the Question on the Order Paper but to Supplementary Questions asking for further explanation, that he knows all about the problem. I have often noticed that those who know most give the shortest answers and those who know little the longest! This hour, of course, is one of the most important for Mr. Speaker who has often to intervene to control irrelevant and discursive Supplementary Questions and Answers.

This naturally leads me to the position of Mr. Speaker, because you will realize from what I have said and from what I am now going to say that Mr. Speaker has to exercise, at times, almost dictatorial powers. It is a definite rule that Mr. Speaker must be obeyed; when he speaks, all must remain silent, and when he rises to his feet, every M.P. must remain seated. His duty is to keep order, to rebuke M.P.s if necessary, and in extreme cases he can call upon the House to suspend an offender for a period. He selects those who wish to speak, and when in his view the subject has been adequately debated, he may accept a motion which is not debatable to close the debate and to vote on the main question.

Another very important power is that of certifying a Money Bill. If he is satisfied that the Bill relates to finance and finance only, he certifies it, and this means that the House of Lords cannot alter or reject it, and in this way the right of the House of Commons to be the sole master of money matters is assured.

This powerful position has been arrived at after many centuries of Parliamentary Government, and it is successful

because Mr. Speaker is entirely independent of all political parties and also of the Government. Unlike the Lord Chancellor in the House of Lords, who is a member of the Government, Mr. Speaker is chosen by back bench Members of the House of Commons. In times past he was the King's nominee, later on he was the Government's nominee, but now and for nearly the last 100 years he has been the nominee of the House of Commons itself. His duties are to safeguard fair play in debate, free speech, liberty of opinion and to protect the right of minorities to have their views heard.

If he fails in these duties, the House of Commons can control him by a vote of censure, but in my thirty years' experience of the House of Commons I have never known of such a debate.

It may be of interest to know that while Mr. Speaker is an M.P. he cannot fight an election on political lines if he is opposed; neither, if he were not re-elected Speaker by a new House of Commons, could he revert to the duties of an ordinary M.P.: he would have to resign. In order to preserve complete impartiality, he lives a life apart; does not enter a political club, neither may he mix with his fellow M.P.s either in the Dining Room or Smoking Room. He has his own residence, and Members have to ask permission should they want to come and see him, and this is most punctiliously observed even by the Prime Minister and Mr. Churchill.

Mr. Speaker stands in a very special position in the eyes of my countrymen. He is to them the symbolic guardian of their liberties, their right to free speech and to free opinions—the real pillars of true democracy. Were he to fail in his trust and allow these rights to disappear in the House of Commons, they feel that it would not be long before they disappeared from their homes, their clubs, and no true Englishman wants this to happen.

In our Constitution, therefore, Mr. Speaker stands first and foremost as the guardian of our liberties, the defender of the rights of the Common People.

THE CONSTITUTION OF THE REPUBLIC OF CHINA¹

by BIN CHENG, Lic. en. droit (Geneva)

THE Constitution of the Chinese Republic was one year old last Christmas. This Constitution marks the culminating point of the Chinese republican revolution whereby the people formally assume the power and duty of their own government.

Although new in its kind, this, however, is by no means the first Constitution in the history of China. It has been said with much truth that China had her first Constitution in the adoption of Confucianism as the State creed in the beginning of the Han Dynasty (Emperor Wu, reigned from 140-84 B.C.). This explains the eminently democratic character of the Chinese body politic throughout the ages, notwithstanding a monarchical form of government until the year 1911; for in Confucianism one finds the clearest recognition of the sovereignty of the people and the supremacy of the rule of law. Mencius (372-289 B.C.) whose words share the same sanctity as those of the Master, said for instance: "[As regards a nation] The people is the first in importance, the State the next, and the ruler the last" (VII, ii, 14). Professor H. A. Giles in his *The Civilization of China*, when referring to this passage, said: "This classification has sunk deep into the minds of the Chinese during more than two thousand years past" (p. 41). Indeed the democratic teachings of Confucianism have their effect not only on the Chinese political

¹ Since this article was completed in 1948, there have been important developments in China. One of the Communist terms for ending the civil war was the abrogation by the Chinese Government of the Constitution described in this article. For purposes of historical record, however, I think the article should be published as originally prepared. Furthermore, it is likely that any future Chinese Constitution will include many of the features described in the article. All Chinese political parties have, at one time or another, claimed to be loyal to the teachings of Sun Yat-sen which, according to Mr. Cheng, form "the basis of the Constitution".—S. K-H.

system, but also very probably have contributed to the theoretic basis of the French Revolution through the introduction of Chinese literature, essentially Confucian philosophy, into Europe, and particularly France, from the seventeenth century onwards.

But there was an important feature in the traditional Chinese body politic which constituted, at the same time, both its distinctive virtue and its heel of Achilles. It was governed by a system of ethics rather than by law. Confucius said, for instance: "If the people are governed by laws, and compliance therewith is enforced by punishments, they will try to avoid the punishments, but will have no sense of shame. If they are governed by ethics, and compliance therewith is secured by moral rules of correct conduct, they will have the sense of shame and will become good citizens" (Lun-Yu, II, iii). The superiority of such a system of government can hardly be denied, but it has the danger of leaving too much to the hazards of human virtue, sometimes leaving the people remediless at the hands of the unscrupulous—save recourse to the *ultima ratio* of revolution. Moreover, such a system of government is possible only where the entire community, or at least the majority thereof, shares the same conception of virtue and enforces, by social ostracism and public opinion, the necessary ethical standard. The required cultural homogeneity and ethical standard on the whole existed in traditional China, when Confucianism, alone given official recognition, formed the basis of education of the people, with the result that no person from the emperor downwards would dare openly to defy the rules of conduct it prescribed. But when the gates of China were forced open about 100 years ago, the prerequisites of such a political system were threatened. For better or for worse, extraneous ideas, ideals and idiosyncrasies, theories, doctrines, and fallacies, ranging from all the ages and coming from all lands, tumbled into China in an overwhelming avalanche, shaking the whole social fabric to the core and destroying the cultural homogeneity of the country. To arrest this cultural disintegration and establish an essentially new

Chinese social philosophy and outlook suitable to the tradition and temperament of the people, embodying what is best in the East and in the West, seems the most important and urgent task facing modern China.

The most important reception of Western ideas in the new Chinese Constitution may be said to consist in the adoption of two things of a methodological or procedural character. The first is the guarantee of the rights of the people by enforceable law. The second, the introduction of the majority rule.

First, the very idea of having a written Constitution as the supreme law of the land is to ensure that the people should have proper remedies for the enforcement of their rights, thus obviating a serious drawback in the traditional system, to which we have already alluded. More specifically the new Constitution opens with a bill of the rights and obligations of the people (Chapter II). The people are guaranteed the political rights of election, recall, initiative and referendum (Article 17). The Constitution further guarantees equality of sex, religion and race (Article 7), freedom of person (Article 8), of belief (Article 13), of speech, information and assembly (Articles 11, 14), of correspondence (Article 12), of domicile (Article 10), and it guarantees the people's right of life, of work and of private property (Article 15). The Constitution further devotes special sections to the establishment of a system of social security (Chapter XIII, 4), protection of labour (Article 153), and universal free primary education (Chapter XIII, 5). In fact, the framers of the Constitution, in their solicitude that the rights of the people should be effectively protected, inserted the following article to cover any oversight:

"All other freedoms and rights of the people that do not jeopardize the social order or general welfare shall be guaranteed under the Constitution" (Article 22).

The rights of the people thus guaranteed have, *inter alia*, two very effective sanctions. First, in virtue of the Constitution, laws or ordinances that are in violation of the Constitution shall be null and void (Article 171, 172). Secondly, the

Constitution establishes the responsibility of the State to indemnify any individual whose guaranteed rights or freedoms have been infringed by a public functionary in violation of law; this in addition to the personal responsibility of the functionary himself, both civil and criminal (Article 24).

Let us now turn to the second important reception of Western method, namely, the majority rule. It is a curious historical development that in no walk of life was there a habit among the Chinese to meet in assemblies and decide matters by a numerical majority. In so far as such practice has developed in China during the last 50 years, it is of alien origin. The establishment of a number of assemblies and councils in the Constitution wherein the majority rule necessarily applies is therefore an important innovation. Yet more novel is the introduction of the popular vote which in turn constitutes but a special application of the majority rule. Mention has already been made of the right of election, recall, initiative and referendum. The exercise of all these rights will involve extensive use of the ballot box. As the vote constitutes now the main lever whereby the people operate their government, it is indeed vital to the success of Chinese constitutional government that they should thoroughly master the technique and fully understand the meaning of its use.

Although the Constitution is known as a Five-Power-Constitution, for reasons which will be explained, it may be true to say that the primary distinction made by the Constitution is between two powers, viz., the legislative and the governmental, or, if one prefers, the legislative and the political. Thus in the Central Government, one finds two directly popularly elected organs, the Legislative *Yuan* (*Yuan* means House, Assembly, or Department) and the National Assembly. While the Legislative *Yuan* is the highest legislative organ of the State (Article 62), the National Assembly exercises the political powers of the people on behalf of the whole body of citizens (Article 25). It is the National Assembly which has created the Constitution and it is this Assembly that holds the power of amending it (Article

27 I (3)). Similarly, in the Provincial Government and in the District (*Hsien*) Government, there are respectively the Provincial Council (Article 113 I (1)) and the Provincial Assembly (Article 112), the District Council (Article 124) and the District Assembly (Article 122), all elected directly by the people. In their respective territorial circumscriptions, the councils exercise the legislative power (Articles 113 II; 124 II); while the Assemblies exercise the political power by establishing the respective local constitutions (Articles 112, 122). In this respect, the only difference between the Central Government and the Local Governments lies in that in the former the Chief Magistrate is elected by the National Assembly, while in the latter he is elected directly by the people (Article 113 I (2); Article 126 *in fine*). Bearing this exception in mind, it may be said that both in the Central and in the Local Governments, there are only two directly elected organs, one essentially political and the other legislative. All the other organs of the State are created either by, or through the instrumentality of, these two elected bodies.

The Constitution only defines, and we shall therefore limit ourselves to a very brief review of, the organization of the Central Government. It has been mentioned that on this level there are two popularly elected bodies; the Legislative *Yuan* and the National Assembly. It is not necessary to elaborate further upon the Legislative *Yuan* beyond pointing out that it is elected for three years and is unicameral.

As for the National Assembly, it is a body elected for six years. As provided in the Constitution, it shall exercise the political powers on behalf of the whole body of citizens (Article 25). Being thus the political mandatory of the people, it holds the important right of amending the Constitution (Article 27 I (3)), having originally created it. As long as its mandate lasts, therefore, it may be called the political oracle through which the *vox populi* is expressed.

The National Assembly holds also the important function of electing both the President and the Vice-President of the Republic (Article 27 I (1)). This method of Presidential election vaguely resembles the double presidential election

provided in the American Constitution. While the original purpose of the double election has now in practice been defeated in America because the President is in fact elected by a popular vote, it would seem that this pitfall can be avoided in the practice of the Chinese Constitution; for, first, the Chinese National Assembly is returned not from such large electoral districts as an American State, but is constituted by representatives from small electoral districts—the *Hsien* (a small administrative district). Secondly, while the personality of the American presidential Elector has come to be of no consequence since he is now no more than a messenger forwarding the popular vote to the Congress, whose work is finished when the message has been delivered, the Chinese National Assembly does not disband after it has elected the President. As has been pointed out, it functions continuously for six years as the political mandatory of the people. The heated contest in the National Assembly for the Vice-Presidency in the last Presidential election seems to indicate that the Chinese double presidential election should reap the real benefit of a double election.

The President of the Chinese Republic is the Head of the State both externally and internally (Article 35). He is the chief civil and military officer of the land (Article 36). His powers are comparatively large, but he does not exercise them without control. For example, while the President makes a number of important appointments, these always have to receive the consent of some other organ. Although the President may, in case of national emergency, proclaim martial law and issue emergency decrees, these may be rescinded by the Legislative *Yuan* (Articles 39, 43. Cf., however, Temporary Provisions During the Period of National Crisis, April 18, 1948, Articles 3, 4, whereby the procedure of 57 (2) is substituted for that of Articles 39, 43). For a rough comparison one may say that he stands somewhere between the President of the French Republic and the President of the U.S.; for under the Chinese President is the Executive *Yuan* which is the real administrative organ of the State.

The President of the Executive *Yuan* is nominated by

the President of the Republic with the consent of the Legislative *Yuan* (Article 55 I). In the Executive *Yuan* there are a number of ministers, some with, some without, a ministry. They are appointed also by the President of the Republic, but on the recommendation of the President of the Executive *Yuan* (Article 56). Roughly speaking, the position of the Executive *Yuan* is similar to that of the Cabinet in Britain, or rather the Government, in its restricted sense, in English constitutional parlance, and the position of the President of the Executive *Yuan* similar to that of the Prime Minister. He assumes therefore the role of Chief Administrator of the land, thus permitting the President of the Republic a more impartial attitude than would be possible for a Head of the State who is the Chief Administrator.

The Executive *Yuan* differs, however, from the British Government in that its members do not form part of the Legislative *Yuan*. Nevertheless, it is held politically responsible to the Legislature (Article 57). This control, held by the Legislative *Yuan*, is exercised by means of approval or disapproval of the administrative policies submitted for examination, by interpellating the President of the Executive *Yuan* or his various ministers, by passing or rejecting the necessary bills and, above all, by the "power of the purse". In case of irreconcilable disagreement between the Executive and the Legislative *Yuans*, the Executive *Yuan* has either to bow to the wishes of the latter or resign (Article 57). In this connection it is worth while to point out again that, whereas the President of the Republic is elected for six years, the Legislative *Yuan* is re-elected every three years. This reminds one of the U.S. Constitution where the President is elected for four years while Congress is renewed every two years, or at least partially renewed every two years.

So far, only two branches of the Government have been mentioned, the Executive and the Legislative. Through the appointment of the President of the Republic, with the consent of the Control *Yuan* (a Department which will be discussed later), two other branches of the Government are created to stand on the same footing as the Executive *Yuan*

and the Legislative *Yuan*. These are the Judicial *Yuan* and the Examination *Yuan*.

The Judicial *Yuan* is the "highest Judicial organ of the State" (Article 77) and has jurisdiction over civil, criminal, administrative and disciplinary matters (Article 77). Beside the normal judicial organization of local courts, high courts and a supreme court, there is provided in the Constitution a College of Grand Judges (Article 79) competent to interpret with binding authority all the laws and decrees of the country, including the Constitution itself (Article 78). Article 171 of the Constitution provides that "Laws that are in contravention of the Constitution shall be null and void". Those who remember the duel between President Roosevelt and the Supreme Court at the beginning of the New Deal policy will realize the importance of the power of the Judicial *Yuan*.

The above division of the governmental machinery into legislative, executive and judicial, is admittedly an adoption of western constitutional science. The indigenous contribution to the system of government consists in the existence of two other departments of the same standing as the above, viz., the Examination *Yuan* and the Control *Yuan*.

From the beginning of the seventh century A.D. onwards, if not earlier, there existed in monarchical China a system of State examinations, conducted with stringent safeguards against political interference, whereby academic degrees were awarded by the State. Normally, officials of the State were appointed only from holders of these degrees, and naturally the higher the degree they held, the higher in rank would be their appointment. This traditional system whereby State officials were recruited constitutes the historical precedent of the Examination *Yuan*. Article 85 of the Constitution provides that: "In the selection of public functionaries, the system of examination by open competition shall be enforced. . . . No person may be appointed to a public office without having passed an examination." The present Examination *Yuan* differs, however, from the traditional State examinations in that the Examination *Yuan* now recruits only civil servants but not the executive members of the Government. Its

scope is wider, on the other hand, in that it determines and registers through examinations also qualifications for practice in specialized professions and as technicians (Article 86 (2)). It differs further in that it is concerned also with the registration, work records, salaries, promotion and transfer, pensions, etc., of the Civil Servants (Article 83).

The creation of the Examination *Yuan* is similar to that of the Judicial *Yuan*, that is to say, the President and the Vice-President of the *Yuan* together with the members of the Examination Board are appointed by the President of the Republic with the consent of the Control *Yuan* (Article 84). They differ, however, in that, while Judges are by the Constitution irremovable and appointed for life (Article 81), the executive members of the Examination *Yuan* serve only for a determined number of years (*Vide* Organic Law of the Examination *Yuan*, 31.III.1947, Article 3 II, Article 10. By this Organic Law, the term of office has been fixed at six years. The Constitution is not opposed, however, to their office being held for life). Members of both *Yuans* have to be independent of party affiliations, and they are guaranteed independence in the exercise of their functions (Articles 80, 81, 88). The obvious purpose is to secure an independent Judiciary and an impartial recruitment and control of the Civil Service.

We may now come to the Control *Yuan*, a permanent, independent governmental authority, the sole function of which is to supervise the working of the entire governmental machinery, central and local. Already in the Chou Dynasty (1012-255 B.C.) the Court Historiographers had the duty of criticizing the Emperor and censuring his officials. After the Chou Dynasty, the governmental machinery through successive Dynasties was usually divided into the Civil, Military and Censorial Departments, with always the existence of an independent Censoriate. The Censoriate received great expansion in the Ming Dynasty (1368-1643) and the activities of the *Yu Shih* ("His Majesty's Commissioners") covered almost the entire public life of the nation.

The Control *Yuan* in the present constitution is a body

elected for six years essentially through the instrumentality of the Provincial and Municipal Councils (Articles 90, 91). It is empowered to investigate the administration of any governmental department (Article 96), to propose measures of improvement where necessary (Article 97 I), and to impeach any public functionary who may be found neglectful of duty (Article 97 II). The members of the Control *Yuan* are accorded special safeguards so that they may express their opinion and perform their duty without fear or favour (Articles 101-102).

To sum up, the Legislature, the Executive, the Judicature, the Civil Service, and the Censoriate constitute the five pillars of the Government. These are considered as five distinctive powers of government which should be kept autonomous of one another, yet within a general frame-work of check and balance—hence the name of Five-Power Constitution.

The elaboration of a doctrine of Five-Power-Government may be considered as the most distinctive contribution of Dr. Sun Yat-sen in his attempt to evolve a new Chinese political philosophy. Both in the preamble and in Article I, the teachings of Dr. Sun are recognized as the basis of the Constitution. In his *San-Min-Chu-I*, which *grosso modo* may be interpreted as National-Democratic-Socialism, Dr. Sun concluded his Chapter on Democracy by saying:

“We should adopt what is best at home and abroad and avoid all their pitfalls. We should, therefore, adopt the Western separation of the legislative, executive and judicial powers, and retain our traditional independence of the Civil Service and Censoriate, woven into a perfect whole to form a government of five powers. Such a system may be considered as ideal, and it is only with such a system of governmental machinery, that we can achieve a government of the people, by the people and for the people.” (Democracy, Lecture VI in *fine* C.F. Article I: “The Republic of China founded on the *San-Min-Chu-I* is a democratic Republic of the people, governed for the people and by the people.”).



Chinese voters waiting to receive their ballots from the polling clerks, November, 1947

Courtesy: China News Service



Parliament House, Canberra

Courtesy: Commonwealth of Australia News and Information Bureau

PARLIAMENTARY GOVERNMENT IN AUSTRALIA

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AUSTRALIAN Parliaments all derive from the Parliament of Great Britain, but they differ considerably from it in methods and sometimes in spirit. Nearly a hundred years of parliamentary development in a country differing widely from Britain in geography and economics, and lacking a "governing class", have resulted in the creation of some parliamentary institutions which are novel by British standards, and in the adaptation of certain British models until they have become almost unrecognizable. The purpose of this article is to describe some of the especially distinctive features of parliamentary government in Australia.¹

In the first place, Australia is a Federation. This means that she has not one sovereign Parliament but seven—a Commonwealth Parliament and six State Parliaments. These, in accordance with K. C. Wheare's definition, "are each, within a sphere, co-ordinate and independent".²

The State Parliaments of New South Wales, Victoria, South Australia, Tasmania and Queensland achieved responsible government in the 1850's, that of West Australia in 1890, and the Commonwealth Parliament came into being in 1901. Up to that latter date the State Parliaments had been supreme in law-making power. Under the stimulus of public opinion, they gave up certain of their powers to the new Commonwealth (or Federal) Parliament, these limited powers being embodied in a written Federal Constitution which was

¹ An important topic omitted from consideration here is the relationship between the Parliaments and the State Governors and the Commonwealth Governor-General. It is treated exhaustively in H. V. Evatt, *The King and His Dominion Governors*, Allen and Unwin, 1936.

² *Federal Government*, O.U.P., 1947, p. 11.

approved by the people of each State at a referendum. Since 1901 the Commonwealth has operated within the limits of this Constitution.

The main effect of Federalism is thus that the Commonwealth Parliament, unlike the British Parliament, must always consider whether it is acting legally when it makes laws. If the laws which it makes are outside the limits set by the Constitution,¹ they may be challenged in the High Court which, like the Supreme Court of the United States, has the right to declare them invalid. Since the Court has often declared legislation invalid, its attitude towards Commonwealth legislation, e.g., the recent attempt to nationalize the private trading banks, is a matter of constant speculation.

The Commonwealth Parliament has consistently sought to increase its powers in various ways. Its greatest success has been attained through administrative channels, especially in finance, and through certain High Court decisions which have enlarged the previously understood circle of Commonwealth powers. Officially, however, the Constitution can be changed only by referendum.

The makers of the Constitution recognized that some means would be required to bring it abreast of changing conditions. But they were reluctant to leave the power of change in the hands of the Commonwealth Parliament itself, because "the disability of a Federal legislature to alter the Federal Constitution is one of the organic features and a prominent characteristic of every federal system. If the Federal legislature could change the Constitution it might transform itself from a subordinate law-making body into an organ of sovereignty; it might destroy the federal system altogether, and substitute a consolidated form of government".² Accordingly, they adopted the Swiss system whereby an amendment to the Constitution becomes law if it is approved at a referendum by a majority of the electors in the country and by majorities in a majority of the States.

¹ The constitution is reprinted in each issue of the *Official Yearbook of the Commonwealth of Australia*.

² Quick and Garran, *The Annotated Constitution of the Commonwealth of Australia*, Angus and Robertson (Sydney and Melbourne), 1901, p. 988.

The Swiss have shown more trust in their Federal Parliament than the Australians.¹ All parties in the Commonwealth Parliament have found the electors reluctant to grant extra powers, even when the Government proposing the changes has itself received majority approval at elections. Out of twenty-three referendum proposals so far, only four have been successful.

The use of the referendum to decide changes in the Federal Constitution has led to its use in other directions. Although there is no constitutional warrant for such practices, Governments have sometimes taken refuge in a referendum when they were not prepared to take the responsibility for action: e.g., the Commonwealth Government held referendums on whether Australians should be conscripted for military service overseas in World War I. Other referendums have been taken to test public opinion on hotel closing hours, while West Australia held one in 1933 to test opinion about secession from the Australian Commonwealth.

In none of these cases did the referendum have *legislative* force; it was merely an expression of opinion. But in New South Wales and Queensland a place is specifically provided for referendums on the nature of the State Parliament: in New South Wales the Upper House cannot be abolished unless the people approve at a referendum, while in Queensland, where the legislature is unicameral (see page 248), the opposite is the case—no second House can be created without a favourable referendum. These two contrary instances reveal the *political* use of the referendum—Australian Governments, being conscious of the electors' reluctance to vote "yes" at referendums, are inclined to safeguard their legislation by demanding that a referendum be held before that legislation can be changed.

All Australian Parliaments except that of Queensland have two Houses, of which the Lower is invariably elected by universal adult suffrage with no provision for property or educational advantages. The Upper Houses, however, display a bewildering variety of forms.

¹ See Wheare, *op. cit.*, pp. 134-6 and 233-5.

In the Commonwealth Parliament, where the Upper House is called the Senate, ten members are elected from each State,¹ the whole State voting as one electorate. They serve for six-year terms, half the members retiring at each three-yearly general election. The original purpose of the Senate was that Senators would be elected, and would act, as representatives of *State*, rather than *party*, interests; but although State interests, in the widest sense, still remain distinct, Senators have been consistently elected on a party basis for the last forty years. The Senate has thus become largely redundant when its party majority corresponds with that in the House of Representatives, and obstructive when the vagaries of elections give the two Houses different party complexions. It does serve to some extent as a revising chamber. It cannot reject money bills, and in the case of constant disagreement between the two Houses on other matters there is provision for a double dissolution. This has been exercised only once, however, in 1914.

In the States, the general position is different. After an abortive attempt to create a Peerage in New South Wales, the original State Constitutions provided for Legislative Councils as Upper Houses, those in New South Wales and Queensland being filled by nomination for life, the rest by election on restricted property franchises. All these Upper Houses have proved stumbling blocks to the legislation of the Labour Party, which is pledged to abolish them. It succeeded in abolishing the Queensland Legislative Council in 1922, by nominating members who were pledged to vote for the abolition of the House once they became members.

In New South Wales the Labour Party twice came close to abolishing the Legislative Council by the same device. In 1934, however, a non-Labour Government succeeded in dropping the "nominee" system and substituting another whereby the sixty Legislative Councillors are "elected by the members for the time being of the two houses—the only example of indirect representation in Australia. Members

¹ The number has so far been six, but with the enlargement of the Parliament at the 1949 elections, the number will be ten.

hold office for twelve years, fifteen retiring every three years".¹ This tortuous method of election has meant that in New South Wales since 1941, a constant Labour majority, re-elected in 1944 and 1947 at Lower House general elections, has been faced by a declining non-Labour majority in the Upper House, which in 1949 will become a Labour majority; if Labour is defeated at the general elections for the Lower House in 1950, it will probably retain its Upper House majority for a number of years more. In this way the two Houses can remain out of step for a considerable period.

In the other States, where Legislative Councils are elected on property franchises (which are widened in some cases to include returned soldiers, university graduates and other special groups, the sum total of which make Upper House electors about a third as numerous as those for the Lower Houses), the Upper Houses act as guardians of property and preserve permanent non-Labour majorities. They adopt a selective policy in considering the legislation of Labour Governments, and customarily veto only those Bills which they consider go beyond the electoral "mandate" of the Government in question. In the last two years, however, Upper Houses in Victoria and Tasmania have taken the unusual step of denying a Labour Government Supply in order to provoke an election for the Lower House. (In such cases the Upper House itself does not have to face the electors.) What results will follow from these actions are still not clear.

It must be confessed that experience with Australian Upper Houses has been that it is impossible to keep party politics out of a "house of review". Perhaps this applies only in the particular conditions of Australia; but to many people in Australia the various plans for a reformed House of Lords in Britain, with their emphasis on the "non-party" nature of the proposed House, seem quite unreal. Politics, like Mark Tapley's cheerfulness, will keep breaking in.

The seven Parliaments employ different methods in dividing the electors into Lower House constituencies. In

¹ Geoffrey Sawyer, *Australian Government To-day*, Melbourne University Press, 1948, p. 18.

the case of the Commonwealth, Tasmanian and Queensland Parliaments the principle of "one vote, one value" is aimed at by dividing the number of constituencies into the total number of electors to form a "quota", electoral boundaries then being drawn to make each constituency roughly equal in numbers to the quota. A margin of 20 per cent. above or below the quota is allowed, and this usually operates to the benefit of rural constituencies.

In the other States a deliberate effort is made to enhance the value of rural votes by making the numbers smaller in rural electorates than in city ones. The reasons given to justify this practice are usually that rural electorates, being much greater in area than city ones, demand a greater effort on the part of both elector and Member; and that the farmer, being "the backbone of the country", deserves a greater weight to his vote than the city-dweller.

At elections, the weighting of the rural vote has different effects in different States. In West Australia, where the Labour Party has a hold on the sparsely-settled mining and pastoral constituencies, it operates to favour that Party at the expense of others. In South Australia, it operates against Labour and in favour of the Liberal-Country League, its sole rival. In Victoria, on the other hand, where Labour has two rivals, the Liberal and Country Parties, it operates largely to the benefit of the Country Party: this brings the normally antagonistic Labour and Liberal Parties, both of which are predominantly "cities" parties, into occasional unanimity in demands for "redistribution" to give greater weight to the city vote. In New South Wales, where the system gives less weight to the rural vote than in Victoria and South Australia, and where the Labour Party is better entrenched in rural constituencies, complaints about the distribution of electorates are rare.¹

All Australian Parliaments have made it compulsory for electors to vote at elections for the Lower House, and the same applies to the Commonwealth and Tasmanian Upper

¹ See *The Round Table*, September, 1947, pp. 401-2, for a good account of the State electoral systems.

Houses. Introduced first by a Labour Government in Queensland in 1915, compulsory voting was made the rule for Commonwealth elections in 1925 by a non-Labour Government and is now accepted by all parties.¹ Before compulsory voting was introduced in Commonwealth elections, between 56 and 78 per cent. of voters enrolled had come to the polls; at the 1943 elections 96 per cent. did so. Much the same can be said of the State elections.

Criticisms commonly made against compulsory voting are that it leads to an excessive amount of informal voting and to an undue weight being placed on the votes of the lazy, feckless and improvident. The first charge is hard to prove, and is of little more than academic importance, although it would be worth discovering what proportion of informal votes are due to incapacity on the part of the elector and what proportion to dissatisfaction with the candidates offering. The second charge is more a matter of values which each democrat must work out for himself. The parties support compulsory voting because it decreases their expenses at elections: the problems of "getting out the vote", which parties experience in Britain and the U.S.A., are solved in Australia by compulsory enrolment and by a universal recognition that one will avoid a £2 fine by going to the polling booth. However, it can be contended that many people, whose original impulse in determining to vote is to avoid the fine, go beyond this point and take the trouble to acquaint themselves with the issues involved in the election, so as to cast their votes wisely. In this sense compulsory voting may be credited with the same virtues, at a lower level perhaps, as compulsory education.

Australians have experimented widely with voting systems, and enthusiastic propagandists will be found in almost any assembly, private or public, for three systems: "first past the post", proportional representation, and preferential voting. Of these the first (the same as in British Parliamentary

¹ Compulsory voting has recently been applied to *local* government elections in New South Wales, but in this case there has been considerable opposition to it.

elections) is the least favoured. Only the Parliament of Queensland uses it, and in that State it produces the phenomenon of a Government with a comfortable majority in the House, but a distinct minority in the State at large.

Proportional representation (or P.R.) has been in operation in Tasmania since 1909, is used in the election of New South Wales Legislative Councillors (see pages 249-50), and will be used at and after the 1949 Federal elections for the Senate only. In Tasmania it has not meant the growth of a multitude of parties, as it is elsewhere accused of: its main fault has been that a Government rarely has a decisive majority in the Lower House, the parties being usually so evenly matched. However, this may also be connected with the fact that the House has only thirty members. In New South Wales P.R. was used between 1918 and 1926, but was said to lead to the detachment of Members from their constituencies. No adequate study of its operation has ever been made.

Preferential voting seems to meet with the approval of most Australians. It applies to elections of all the Lower Houses except the Tasmanian and Queensland. The voter must mark his range of preferences among the candidates by putting "1" against the one he most favours, "2" against the one he next favours, and so on until he has marked every name. The vote is informal if he does not mark every one. The first preference votes are then counted, and if one candidate has an absolute majority he is declared elected; but if none has an absolute majority the candidate lowest on the list is eliminated and his second preferences allotted as additional votes for the candidates for whom they were cast. This process of elimination continues until one candidate is credited with an absolute majority.

Such a system means two things:

(a) That a party can afford to put up more than one candidate in the same electorate, if it can be certain that there will be an "exchange of preferences" between them; and

(b) That a party which is "split" can still muster a

good array in Parliament, so long as the "breakaway" groups give it their second preferences at an election.

Broadly speaking, Australian Parliaments all use much the same rules of debate and procedure as the British Parliament, but Australian conditions have brought about certain changes in the way some parliamentary institutions operate. Party feeling has always been high in Australian Parliaments, Members have normally been self-made men rather than men of inherited property and university education, and local issues, such as the demand for railways, roads and schools within the M.P.'s electorate, have always been prominent. Australian Parliaments are thus "rough and ready" in comparison with the staid traditions of the House of Commons. Here we can deal only briefly with three examples of distinctive parliamentary habits: the position of the Speaker, the use of committees, and the remuneration of M.P.s.

The Speaker in an Australian Parliament is elected under the banner of a party, carries on all the functions of an ordinary Member (attention to constituency matters, attendance at Party meetings, etc.), is opposed in his constituency like any other Member, and is replaced by a new Party nominee when a change of Government occurs. In the Commonwealth Parliament it is not unusual for the Speaker to take part in discussions when the House is in Committee,¹ although this has not occurred in the House of Commons since 1870. The Australian habit of the Speaker taking part in debate was well established in the 1870's, when Trollope heard the New South Wales Speaker making a speech "not simply on the clause under discussion, but with considerable party violence on the subject of the Bill at large".²

Apart from speaking in Committee, the Speaker is sometimes called on to vote directly for his Party: Sir Littleton Groom, the Federal Speaker in 1929, was violently opposed

¹ Speakers MacKay, Bell and Nairn, the nominees of non-Labour Governments, spoke in Committee eight times between 1932 and 1942; the present Labour Speaker, Mr. Rosevear, often speaks in Committee.

² Anthony Trollope, *Australia and New Zealand*, Robertson (Melbourne), 1876, p. 158.

and defeated in his constituency by his own Party after refusing to vote with it in a Committee division; and Sir George Knox, Speaker of the Victorian Legislative Assembly, refused a request from the Joint Liberal and Country Party Conference in September, 1947, that he should resign in order to dislodge a Labour Government with a precarious majority.

Australian Parliaments make less use of Committees than does the House of Commons. It is usual for Bills to be considered in Committee of the Whole, rather than by Standing or Select Committees. Standing Committees on Public Works and Broadcasting exist in the Federal Parliament, but their function is more to supervise administration than to consider legislation. It has been suggested that Australian Parliaments incline towards Committees of the Whole because they are so much smaller than the House of Commons¹ and are, in effect, equivalent to Standing Committees of the Commons. But there is little doubt that the wider use of Committees would make for better legislation, and might help to make the discussion of Bills less acrimonious: it is now most unusual for the Government to accept opposition amendments in Committee of the Commonwealth House of Representatives, and the trend towards the absolute and unalterable division of the House is most marked.

Australia was early in the field with payment of M.P.s. Victoria having instituted it in the 1870's; the only unpaid House remaining in an Australian Parliament, the New South Wales Legislative Council, lost that status recently when an Act conferred an allowance of £300 p.a. on Councillors. Members of the Commonwealth Parliament receive £1,500 p.a., and the tendency is now for State M.P.s to receive about £1,000 p.a. The Australian Member of Parliament is frankly looked upon as a "professional", in the sense that he is engaged in a full-time job. His electorate is usually more widespread than a British one, and he is con-

¹ Numbers in the Lower Houses are: Federal, 75 (to be increased to 123 in 1949); N.S.W., 90; Victoria, 65; Queensland, 62; South Australia, 39; West Australia, 50; Tasmania, 30. According to Jennings (*Parliament*, p. 270) House of Commons Standing Committees "consist of miniature parliaments of between 30 and 85 members".

stantly called upon to show himself a "good local Member". The traditions of pre-Federation politics, when the State Governments were solely responsible for roads, railways, schools, bridges, irrigation works, etc., have left their mark on the present-day Australian politician. His constituents tend to regard him as an employment broker, a "fixer" for permits, a man who sees that the Government, whether of his own political colour or not, makes improvements to the district.

A Member in such a position has little time to cultivate his own affairs; and so a demand has arisen among parliamentarians for "pensions" on defeat or retirement. Such schemes are now in operation in the New South Wales and Commonwealth Parliaments. In the latter case a member with eight years' service in the Parliament becomes eligible for a pension if he retires, is defeated at an election, or loses the "pre-selection" of his party and thus loses his seat; if he dies his wife receives a special pension.

Australian Parliaments do not observe the British distinction between the "Cabinet" and the "Ministry", largely because fewer Ministers are required to carry on the Government's business, and so all can be accommodated within the Cabinet. The Commonwealth Cabinet, which is the largest, now has nineteen members. Although Honorary and Assistant Ministers are to be found in some of the Parliaments, it is usual to have only Ministers who directly administer departments.

Two conventions of the British Parliament—the supremacy of Cabinet and the principle of Cabinet solidarity—have been considerably affected by the practices of Australian Parliaments, and especially by the Party relationships which exist, both within and between Parties. Although Cabinet is normally supreme in its administrative decisions, e.g., in the appointment of high officers of state, it normally (in the case of the Labour Party, at any rate) refers its proposals for legislation to a Party meeting before bringing them into the House. Cabinet solidarity suffers attack from two directions—from the difficulties of coalition between the Liberal and Country Parties (see pages 257-8), and from the practice of

Labour Party Ministers of publicly criticizing Cabinet decisions with which they disagree. In the main, however, the two conventions continue to operate unless some acute Party difference appears.

It will already be apparent that political parties are of great importance in setting the tone of parliamentary government in Australia, and that party strife is, and has traditionally been, very strong.

The Labour Party has been the main initiator of special Party institutions within Parliament. Apart from its methods in the selection and pledging of parliamentary candidates, for which we have no space here, its main contribution to parliamentary life has been the caucus—which, however, has ancestors in Parnell and in the organization of American political parties. The Labour caucus is the whole body of Party members within the Parliament, which meets regularly and has the task of selecting the Party leader, electing the members of a Labour Cabinet, and deciding the Party's policy on issues which are to come before Parliament. Members are not bound to vote in Parliament as a majority of the caucus decides, except on matters affecting the Labour "platform" or questions determining the fate of a Government; but a Member who flouts important caucus decisions is likely to be expelled from the Party or lose his Party endorsement at the next election.

The tendency has been for other parties, as well as Labour, to adopt this "solidarity" and to discipline members who vote against the party line. More important, perhaps, is the caucus function of electing the Cabinet. When Labour is to take office, the leader announces to a Party meeting the number of posts there will be in the Cabinet. Nominations are made, and an exhaustive ballot (sometimes occupying hours) is taken to elect the members of Cabinet. The allocation of portfolios remains in the hands of the leader. Although he may make it known indirectly that he does not want particular members in his Cabinet, he cannot refuse to accept those whom caucus has chosen, once the ballot is concluded. Thus, in complete variance from standard

British practice, a Prime Minister loses his power to decide and change his Ministry at will; furthermore, if a Prime Minister wishes to dismiss one of his Ministers, he must take the matter to caucus for a decision and the election of a substitute.

The system is designed by Labour to keep a Ministry responsible to its Parliamentary Party. In this it is largely successful. Labour Ministers, aware that they owe their positions to the goodwill of their fellow-Members, do not neglect to make Cabinet policy known to caucus and to gain approval for important moves before they are made in Parliament. Since caucus meets regularly during a parliamentary session, this means that Government measures are debated twice, once in caucus and once in Parliament; and of the two debates, that in caucus is the more likely to affect the legislation. If it does not meet with final caucus approval, it will not reach Parliament.

The disadvantages of such a method (apart from its break with tradition) are that legislation may be either condemned or, in effect, finally approved by an actual minority of the House—i.e., by a bare majority of the caucus. Its advantages are that Ministers can test out legislation before it reaches the public and Parliament (although newspapers usually find out what has happened in caucus), and that the Party as a whole has an opportunity to keep a check on the Ministry.

The remaining topic concerning parties which is of importance here is that of coalitions. A non-Labour Government in Australia is normally a coalition between Liberal and Country Parties in which, although the Country Party is usually in a minority, it often claims the right of veto over Government legislation. A Liberal Prime Minister in such a situation, although he has the traditional British right of selecting the *Liberal* members of his Ministry, must accept those *Country* Ministers whom the Country Party itself selects. The Liberal Premier of Victoria in late 1948,¹ Mr. Holloway,

¹ A "Prime Minister" in Australia is the leader of the Commonwealth ministry. "Premiers" are the leaders of State ministries.

on refusing to include within his Cabinet Sir Albert Dunstan, a Minister nominated by the Country Party, was deserted altogether by the Country Party on the ground that it could not give up its right to select its representatives in the coalition.

Naturally, such a situation constantly produces friction, especially when the two Parties are near the same size. The whole problem of coalition Government, relatively unknown in Britain in its mature form, despite the experiences of the National Government in the 1930's, has important implications for parliamentary convention which extend beyond Australia. It embraces the question of a possible "third party" which, in Britain and the U.S.A., has been alternately feared and hoped for by political scientists as a modifier of the traditional methods of governing on a two-party basis. In Australia the problem has been dealt with empirically by treating the parties sometimes as two, sometimes as three; but the solution is certainly neither satisfactory nor permanent.

It would seem presumptuous to suggest that Australia could teach Britain much in the sphere of parliamentary government. Yet, in a sense, Australian politics are in advance of British politics: Labour Governments have been in power in all Australian Parliaments during the last forty years, while in Britain a Labour Government *in power* is a phenomenon so recent as 1945, and still problematical. Two things which have long been a commonplace of Australian politics—the relationship of Parliament to nationalized industries, and the relationship between a Labour Government and its trade union organization—are only now becoming important issues in Britain. Questions of voting systems, Upper Houses, coalitions, and the relationship between a Cabinet and the Party which supports it, may all be the cause of acute discussion in Britain during the next decade. Parliamentary procedure and institutions are largely the product of the issues which Parliament considers; and Australian experience may at least be able to indicate some pitfalls to be avoided, if not some methods to be adopted.

LEGISLATIVE BUILDINGS OF THE WORLD-IV

THE PALACE OF WESTMINSTER¹

by SYDNEY D. BAILEY

TO write the history of the Palace of Westminster is to write the history of England. The Palace is, in a sense, our greatest national monument. It is the home of the British Parliament, the Lords and Commons being technically the guests of the Sovereign whose high office is, of course, an integral part of Parliament.

In 1242 the word *parliament* (or *parlement*, a parley or conference) was first used to describe a great council to which the King summoned prelates, earls and barons to discuss "our difficult business touching the state of us and our whole kingdom". In the thirteenth century the great councils often met at Westminster (probably in the Great Hall), but also at Oxford (1258), St. Albans (1261), Windsor (1283), Salisbury (1297), or wherever was most convenient for the King.

The emergence of the Commons as a separate Chamber is believed to date from 1327, when they presented their first common petition. During the 1340's it became customary for Parliament to assemble in the Painted Chamber at Westminster and, after the declaration of the cause of the

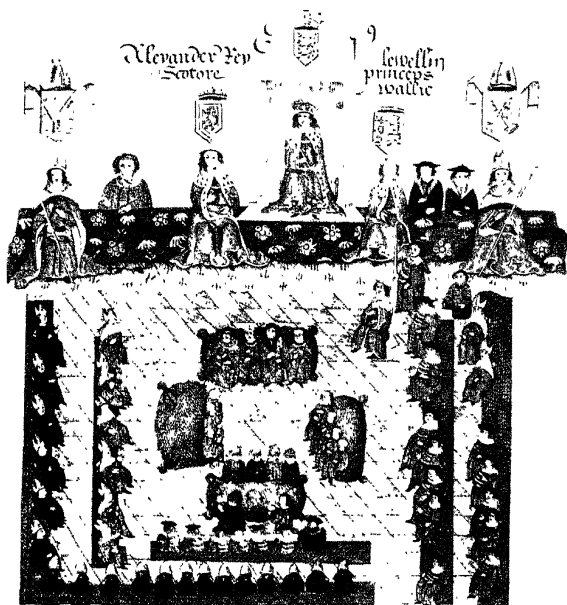
¹ This article forms one of a series concerned with the world's legislative buildings. For more than a thousand years the Palace of Westminster has been at the centre of our national history. This article, however, is concerned with the buildings, not with what happened in them. Limitations of space have made it impossible to give even the briefest description of the many historic events which make the Palace unique among the legislative buildings of the world. In preparing this article, I have found *The Houses of Parliament*, edited by K. R. Mackenzie, extremely useful. I am also indebted to J. D. Lambert, formerly head of the Information Department of the Hansard Society, for his willing help. For the accuracy or otherwise of the article I alone am responsible.

summons, for the Lords to proceed to the White Chamber. The Commons held their deliberations in various places. Sometimes, as in 1341, they remained in the Painted Chamber. In 1352 they were ordered to withdraw to the Chapter House. In 1368, after the usual opening ceremonies in the Painted Chamber, they retired to the White (or Lesser) Hall. In 1376 they met in the Chapter House, which was described as "their former place". In 1397 the Refectory of the Abbey is mentioned as being used by the Commons, and this seems to have been their usual place of meeting until 1416. Where they met for the next 130 years is uncertain. In 1547 the Second Chantries Act of Edward VI suppressed St. Stephen's Chapel and other free chapels, and from then until the great fire of 1834 the Commons met in the former chapel, to-day known as St. Stephen's Hall. The Lords seem to have used the White Chamber regularly until 1801 when the White Hall became their place of assembly.

II

The story of the Palace of Westminster begins just over thirteen centuries ago when a religious community in search of solitude established a settlement on the marshy piece of land beside the Thames called the Isle of Thorney. These monastic buildings were badly damaged during the Danish invasions, but in the second half of the tenth century King Edgar, on the suggestion of Dunstan, had them rebuilt and, according to William of Malmesbury, "brought thither twelve monks of the *Benedictine Order*". This was the spot, soon to be called Westminster, chosen by King Canute for a royal residence, apparently in order to enjoy the wit and eloquence of the local Abbot whose name was Wulnoth. Here, according to one tradition, Canute refused to order back the tide.

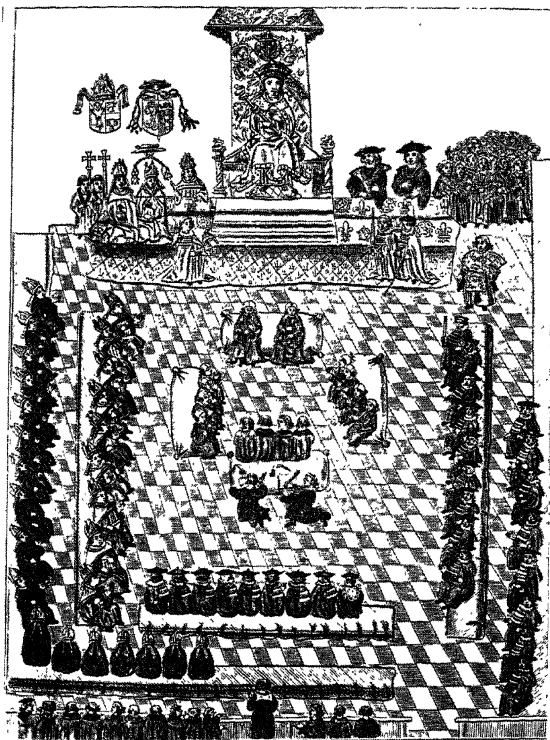
Edward the Confessor, a simple and pious man, wished to make the royal residence a centre of religious enlightenment and he had an Abbey built near Canute's palace. Sulcardus says that he spent "a tenth of his entire substance" on this



Edward I and His Parliament

Edward I is on the throne, and on a lower seat are the King of Scotland, the Prince of Wales, and the Archbishops of Canterbury and York; on the benches at right angles to the throne are the spiritual and temporal peers, and on the cross bench facing the throne sit the Commons. On the four wool sacks sit the judicial officers

Courtesy: Society of Antiquaries of London



The Opening of Parliament at Blackfriars, 15th April, 1523

King Henry VIII is seated on the throne. On his right is Cuthbert Tunstall, Bishop of London; Cardinal Wolsey; and William Warham, Archbishop of Canterbury. On the King's right is a bench of Bishops and behind them are the Abbots. On his left are the Dukes and Earls. The Barons are on the cross-bench, continuing behind the Dukes and Earls. Members of the Commons are at the Bar with Sir Thomas More, their Speaker, in the centre. On the Cloth of State are three Earls. The four Woolsacks are occupied by judicial officers, and kneeling behind them are two Clerks. In the background on the left of the King are the eldest sons of Peers

building. West Minster (so named to avoid confusion with St. Paul's in the East) was consecrated on Holy Innocents' Day, 1065, the year before the Norman invasion. Edward, who was frail and delicate, played a prominent part in the dedication ceremony but the effort cost him his life. Abbot Aelred of Rievaulx records that when he returned to his palace "he laid his head upon the couch, and began to be sorely pained". He died within a week and was buried in the newly consecrated church.

William the Conqueror, though a Norman, wished to pose as a King who respected English traditions and he was crowned in the new Abbey near to Edward's tomb on Christmas Day, 1066. He showed his respect for Edward by having his remains re-interred in a more elaborate tomb.

William Rufus, the Conqueror's son, was also crowned at Westminster and built the Great Hall between 1097 and 1099 as the nucleus of an extensive new palace. It was used as the official residence of most English Kings until the sixteenth century. When someone complained to William that the Hall was too large, he is said to have replied that it was not as large as it should have been and that it was only a bed-chamber in comparison with the palace he intended to build.

King John had various improvements effected to the Great Hall. £10 was spent in 1205 for general repairs, and 100s. in 1207 for restoring the roof. A bath was installed in 1213 at a cost of 6d., and there is an entry in the Close Rolls in 1214 stating that the tin lavatory (*stagnum lavatorium*) which was used by the King at Westminster had been removed to the Convent of the Holy Cross at Waltham.

Henry III undertook extensive repairs and new construction at Westminster from 1217 onwards. He was married in 1236 and the nuptial feast was held in the Great Hall. In 1244 he had erected "a new chamber near to our Hall at Westminster" at a cost of £1,949 13s. 5½d.

Holinshed records a serious fire in 1263 which destroyed many of the buildings at Westminster. In the same year an angry mob did further damage, and four years later some

drunken and insurgent soldiers again attacked the royal residence.

King Stephen had St. Stephen's Chapel built in 1141. The Crypt Chapel was begun in 1292. Work was interrupted by the fire of 1298 which caused much damage. Parliament had to meet at the palace of the Archbishop of York (on the site of the later Palace of Whitehall) where the King was residing. The Crypt was completed in 1327. Edward III had the upper Chapel completely rebuilt in Gothic style at great cost, the design being the work of one Thomas of Canterbury, a master mason, who received six shillings a week in wages.

The Cloisters attached to what was formerly St. Stephen's Chapel were built about 1356, and rebuilt between 1526 and 1529 under the direction of Dr. John Chambers, the King's physician who was also Dean of the Chapel. They were restored after the fire of 1834 in the original style.¹

Richard II had the Hall at Westminster remodelled, the architect being Henry Yevele. The magnificent hammer-beam roof was the work of Hugh Herland, Edward III's master carpenter. In 1389 Richard II appointed Geoffrey Chaucer, the poet, to be Clerk of Works at Westminster.

Richard III started extensive work at Westminster in 1484, the workmen being conscripted in various parts of the country. In 1512 another great fire did considerable damage to the buildings, and since then the Palace of Westminster has not been used as a royal residence. An Act of Parliament of 1536 stated that the Palace had been for a long time "in utter ruine and decaye", and it was not until 1570, in the reign of Queen Elizabeth, that rebuilding was undertaken.

The famous plot to blow up the House of Lords occurred in 1605, two years after the accession of James I. The story is well known. The Catholics had hoped that James would redress some of the grievances brought about by the Protestant

¹ In 1885, the Fenians placed a bomb in this part of the Palace of Westminster, but a policeman picked it up and carried it as far as Westminster Hall where it exploded. The Cloisters were badly damaged on 8th December, 1940, by a high explosive bomb.

severity of Queen Elizabeth. A few hot-headed conspirators, including a certain Guy Fawkes, filled a coal cellar under the House of Lords with gunpowder which they intended to explode when Parliament assembled. One of the conspirators warned Lord Mounteagle, a Catholic Peer, to absent himself from Parliament, and the plot was discovered. Guy Fawkes was found on the night of 5th November *in flagrante delicto* and in accordance with the delicate custom of the times was tortured on the rack, and was subsequently hanged, drawn and quartered.

With the accession of Charles I, Westminster became the main battle-ground of the political struggle between King and Parliament, and it was in the Great Hall in 1649 that Charles was sentenced to death as "a tyrant, traitor, murderer and public enemy".

No important changes to the buildings took place between the sixteenth and nineteenth centuries. Repairs and improvements to Westminster Hall were effected in 1680 (under the direction of Sir Christopher Wren), 1732, 1793, 1820 and 1822/6.

There does not seem to have been any consistent arrangement in the seating of those present in Parliament. The picture facing page 260 of a thirteenth century Parliament shows Edward I on the throne, and on a lower seat in front of the throne the King of Scotland, the Prince of Wales, and the Archbishops of Canterbury and York. There are four wool-sacks on which sit the Judicial officers. Spiritual and temporal peers sit on benches on each side of the King, with the Commons seated on a bench facing him.

In the sixteenth century the arrangement had become more formal, as the picture facing page 261 of the opening of Parliament in 1523 shows. The bishops sit on the right of the throne and behind them sit the abbots. On the left are the temporal peers. The Commons stand, grouped around the Speaker, at the Bar: after the opening ceremony they would withdraw to deliberate separately as they do today.

By the eighteenth century, the arrangements in both Houses had become settled in much the same form that we know to-day.

III

Dissatisfaction with the accommodation provided in the House of Commons Chamber had been growing for about a century before the fire of 1834. A Select Committee sat during 1831 "to consider the possibility of making THE HOUSE OF COMMONS more Commodious and less Unwholesome". The Committee came to the conclusion that the existing House was inadequate, but that no alterations or improvements could be effected. All that they could recommend was the construction of a new House of Commons.

Another Select Committee sat during 1833 under the chairmanship of Joseph Hume. The Committee consulted several eminent architects, and recommended "the erection of a new House of Commons", but the fire of 1834, which destroyed the major part of the Palace of Westminster, solved the problem of rebuilding.

The cause of the fire is well known. On 16th October, 1834, Mr. Weobley, the Clerk of the Works, ordered some workmen to burn two cartloads of tallies¹ in an ordinary stove in the House of Lords near Black Rod's box. He directed them to burn only a few at a time. Evidence as to what happened is conflicting. The workmen claimed that they put on only ten or twelve tallies at a time, damping them occasionally with water. Another witness told a very different story and spoke of "an astonishing blaze". The workmen finished burning the tallies and went home. The stove, which had become overheated, apparently set fire to some panelling, and in a few hours the Palace of Westminster was a heap of smouldering ruins.

¹ In the Harcourt Corridor there is a glass case in which are exhibited samples of these tallies. The inscription is as follows: "Exchequer Tallies for recording payments between the Crown or Government and others were introduced shortly after the Norman Conquest. They had the advantage of providing a perfect check for both parties and were easily understood by illiterate persons. . . . Tally Sticks were used officially, in spite of Burke's Act for the abolition in 1782, until the death of the last Chamberlain of the Exchequer in 1826. When vast numbers of Tallies were being burned in 1834, overheating of the flues caused the conflagration which destroyed the buildings of the old Houses of Parliament. . . ."

Temporary accommodation for the two Houses of Parliament had to be found while rebuilding was going on. On 23rd October, a week after the fire, the Lords met in their Library and the Commons in a Committee Room, and Parliament was prorogued. It was finally decided that a new roof should be fitted on the Court of Requests for the temporary use of the Commons, and that the Peers should meet in the old Painted Chamber after repairs had been undertaken.

William IV was anxious that Parliament should find a permanent home in Buckingham Palace, an extravagance which he had inherited from George IV. Sir John Hobhouse, who was in charge of the Department of Woods and Forests and was therefore responsible for the care of public buildings, wrote: "He seemed delighted at having an opportunity of getting rid of Buckingham Palace; said he meant it as a permanent gift for Parliament Houses, and that it would be the finest thing in Europe."

On 2nd March, 1835, on the proposal of Sir Robert Peel, a Select Committee was appointed to decide what should be done about a permanent building. In spite of the suggestion of William IV, the Committee recommended that designs for new Houses of Parliament should be open to general competition: the use of the old site and a building in Gothic or Elizabethan style was advocated. Ninety-seven architects submitted designs and that of Mr. (afterwards Sir) Charles Barry was accepted: this design was in the Gothic style of the Tudor period and was felt to be in keeping with the style of Westminster Hall and the ruins of St. Stephen's Chapel which had survived the fire.

Barry had much assistance from A. W. N. Pugin, a gifted but eccentric and quarrelsome young architect. The broad conception of the plan—which was modified during construction—was Barry's, but much of the detailed work was done by Pugin.

The foundation stone of the new building was laid on 27th April, 1840, by the architect's wife, and the building was completed in 1852. The cost was £3,200,000. The

building is constructed in magnesian limestone from Yorkshire. It has proved susceptible to the corrosion of the atmosphere, and in 1928 renovating work was begun. This was suspended upon the outbreak of war in 1939. The whole is built on a ten-foot bed of concrete and covers an area of eight acres. There are four storeys. The main floor includes the two Chambers, the libraries, dining-rooms, and Ministers' rooms. On the first floor are the main committee rooms and offices. The top floor provides office accommodation, press rooms, and storage.

Considerable damage was done to the Palace of Westminster during the last war. During fourteen different air raids bombs fell on the Houses of Parliament. The most serious attack occurred on 10th May, 1941, when twelve separate incidents were recorded in various parts of the building and three people were killed. The Commons Chamber was entirely destroyed and fire spread to the Commons Lobby. The roof of Westminster Hall was set on fire. The clock tower was damaged, and the House of Lords was hit by a bomb which penetrated the floor of the Chamber but failed to explode. A number of smaller rooms were damaged or destroyed.

IV

The visitor approaching the Palace of Westminster from Whitehall first reaches New Palace Yard, the open court between the famous Clock Tower and Parliament Square. It is through this Yard that Members pass to reach their Entrance. It was first called "New" in the eleventh century or soon after, to distinguish it from the Old Palace Yard about 150 yards to the south.

Probably the most widely known part of the Palace of Westminster is the 320-foot Clock Tower. The clock is the largest in the world, each dial having a diameter of 23 feet and containing 365 panes of opal glass, one for each day of the year. The minute spaces are about a foot square. The clock was designed by Professor George Airey, Astronomer Royal, and Mr. E. B. Denison, Q.C. (afterwards Lord

Grimthorpe) and was constructed by E. J. Dent of London. It was finished in 1854, but the Tower was not ready, so for five years the clock was kept in Dent's factory.

The largest of the five bells is named after Sir Benjamin Hall, the burly First Commissioner of Works, who was popularly known as Big Ben. Hall had made a speech urging that the bell be called St. Stephen, and when he sat down, someone shouted "Why not call it Big Ben?" And Big Ben it has been ever since.

On the first floor of the Tower is the room in which Members can be imprisoned for gross contempt of the Speaker's authority.¹

Old Palace Yard lies to the south of St. Stephen's Entrance and Porch, through which members of the public enter the Palace of Westminster. The Peers' Entrance (100 feet to the south-east of the Statue of Richard I), the Chancellor's Gate, and the Royal Entrance all open out on to Old Palace Yard.²

The visitor usually enters the Palace of Westminster by St. Stephen's Entrance, and passes through the Porch into St. Stephen's Hall. On this site, as we have seen, St. Stephen's Chapel stood from 1141 to 1547 when it became the Commons Chamber. It is a long, imposing room, containing statues of famous parliamentarians and early Kings and Queens. At each end of the Hall is a mosaic panel, one depicting the founding of the Chapel by King Stephen and the other its rebuilding by King Edward III. The walls are decorated with eight panels illustrating significant events in English constitutional history. Brass studs in the floor mark the position of the Speaker's Chair and the Table when the Hall was used by the Commons. A brass tablet near the

¹ Charles Bradlaugh was the last Member to be confined in the Clock Tower, in 1880.

² In former times the Old Yard contained a tavern called "The White Rose", a chapel, and simple wood dwellings to accommodate the thousands of servants who worked in the Palace. In 1399 Geoffrey Chaucer took the lease of a house in the Old Yard. It was here that Guy Fawkes and his fellow conspirators plotted to blow up the Houses of Parliament, and here Sir Walter Raleigh was executed in 1618 under a sentence of treason passed 15 years previously.

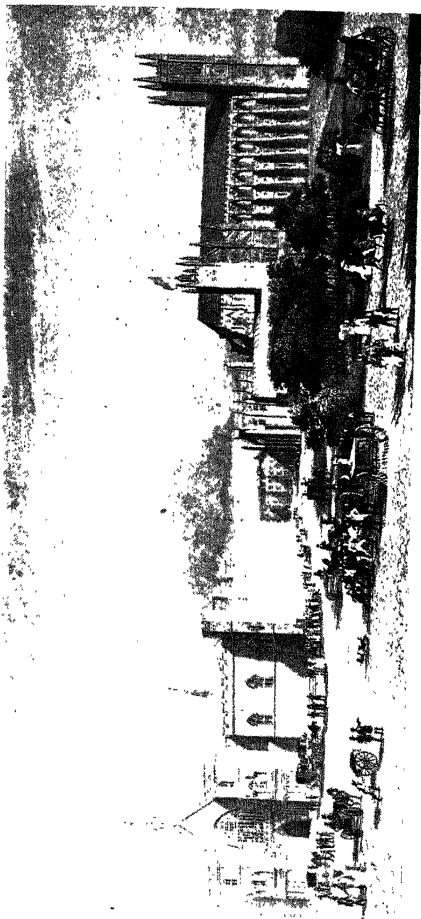
West end marks the place where Spencer Perceval, the Prime Minister, was assassinated in 1812.

The visitor passes from St. Stephen's Hall to the Central Hall. This is an octagonal room with a vaulted stone roof, and is the rendezvous where visitors and Members usually meet. The roof is decorated with carved bosses and Venetian mosaics. Statues of Kings and Queens stand at the sides of the four arched doorways, each of which is surmounted by a stained glass window and a large mosaic panel. There are several statues of famous parliamentarians. The windows were destroyed by enemy action during the last war.

A corridor, containing eight frescos illustrating the Stuart period, runs from the Central Hall to the Commons Lobby.

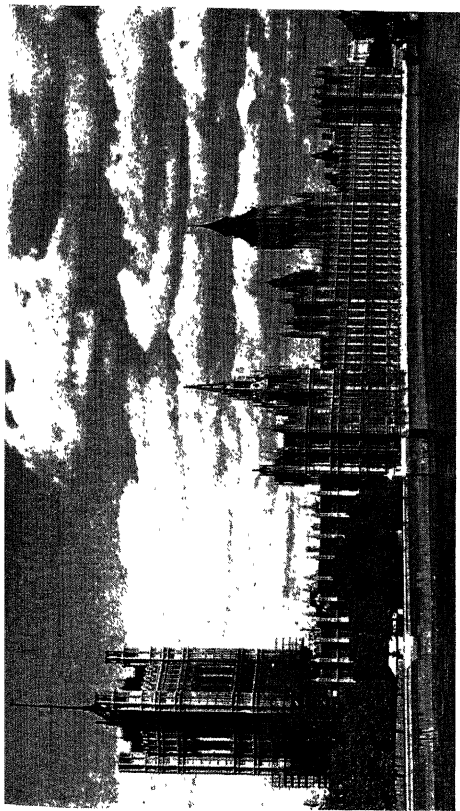
To the north of the Members' Lobby is the site of the House of Commons Chamber which was entirely destroyed by fire on the night of 10th May, 1941. It was a rectangular chamber 68 feet long by 45 feet wide. It had accommodation for 346 Members on the green leather benches, and the galleries provided accommodation for about 150 Members, officials and reporters, and 265 strangers. The Chamber was similar in shape to St. Stephen's Hall, in contrast to the semi-circular design of many foreign legislative buildings. The Speaker's Chair stood at the north end. The Division Lobbies were along either side of the Chamber, the Ayes going to the Speaker's right and the Noes to his left.

The new House of Commons Chamber at present being built was designed by Sir Giles Gilbert Scott, O.M., R.A., and will be similar in design to the old one. At the suggestion of Mr. Churchill, the war-scarred entrance arch will be incorporated in the new building. There will be slightly more accommodation for Members, officials, reporters, and strangers, and there will be improved systems of heating, ventilation, and lighting. There will be secretarial accommodation and interviewing and conference rooms not previously available. The design was approved by the Royal Fine Art Commission and described as "dignified and satisfactory". The foundations were completed in 1947 and



The Palace of Westminster and the Abbey in 1826. From an engraving by A. Pugin

Considerable improvements were effected at Westminster between 1822 and 1826 under the auspices of King George IV, the designs being the work of Mr. (later Sir) John Soane. The Old Prince's Chamber or Robing Room and the Old House of Lords were demolished. A new royal entrance to the House of Lords was provided, and other additions included the King's Staircase, the Royal Gallery, the Lords' Library and various committee rooms and offices. The royal entrance was designed by the King himself who considered the old entrance "altogether unworthy."



The Palace of Westminster

Courtesy: Ministry of Works. Crown copyright reserved.

This photograph was taken from the South bank of the river Thames in July, 1947. Round Victoria Tower can be seen scaffolding needed for repairing war damage. Victoria Tower is the tallest part of the building, being 396 feet to the top of the flagstaff, compared with the 320 feet of the Clock Tower and the 300 feet of the Central Tower. The East or river front of the Palace is 872 feet long, and the South front from Victoria Tower to the river is 323 feet long

the Chamber is expected to be ready for occupation after the summer recess of 1950. The cost is estimated at £1,779,05

To the south of the Central Hall lie the Peers' Corridor and the Peers' Lobby, both now used by the Commons. The Peers' Corridor is decorated with 8 pictures illustrating the Stuart period. The Lobby is the place where newspaper correspondents seek information and advice from M.P.s, and the verb "to lobby" has now become part of the English language. The Lobby is a fine square room with decorated stonework and a tiled floor. The windows were destroyed in an air attack during the last war.

From the Lobby, one passes into the House of Lords' Chamber, used by the Commons since the destruction of their Chamber in 1941. It is 80 feet long and 45 feet wide. The throne is placed at the southern end, and a temporary Speaker's Chair stands at the opposite end. The carved oak Speaker's Chair designed by Pugin, which had been in use since 1852, was destroyed in the 1941 air raid.¹ Behind the Speaker's Chair is a green bag for petitions. The Chairs of State and the Woolsack have been removed. The Table of the House, at which the three Clerks sit, stands in front of the Speaker's Chair. At the end of the Table farthest from the Speaker are the two pairs of brackets for the mace.²

On either side of the Table is a dispatch box, that on the right of the Speaker marking the place of the Prime Minister

¹ Before 1834, it was the custom for each Speaker to keep his Chair upon retirement. From 1706 onwards each new Chair was a copy of the one designed by Sir Christopher Wren. One of these Chairs is now in use at Canberra.

² It is thought that maces were originally clubs used by ecclesiastics who did not wish to break the canonical law by shedding blood with a sword. The mace was adopted by the royal bodyguard during the lifetime of Richard I. There was a mace in use in Parliament before the Restoration. In 1649, a committee of the Commons was ordered to consider the design of a new mace. A design was decided on, and one Thomas Maundy, a goldsmith, was entrusted with its manufacture. The bill for the work came to £146 11s. 8d. Four years later, Cromwell dispersed the Long Parliament and referred contemptuously to the Mace as a "Shining Bauble". The present mace is about 300 years old: it is just under 5 feet in length and is silver-gilt.

and that on the left the seat of the Leader of the Opposition. The boxes contain copies of the New Testament, the Old Testament in Hebrew, the oath which Members take, and the affirmation made by Quakers and others who object to taking oaths. There are five rows of benches on each side of the Chamber, separated by two gangways. A strip of carpet runs along each of the front benches, as in the old Commons' Chamber. No Member may pass beyond this carpet when addressing the House, a reminder of the days when Members carried swords which they were tempted to use when the debate became heated. Before the damage to the Cloisters during the war, the Members' Cloakroom contained pegs with loops of red tape on which Members of former days hung their swords. In more recent times these have been used for umbrellas and other more prosaic impedimenta.

The stained-glass windows in the Lords' Chamber were destroyed by blast during the war and have been replaced by plain cathedral glass. Between the windows are eighteen bronze statues of barons who forced King John to sign the Magna Charta. There are three archways at each end of the Chamber filled with frescos. Beneath the galleries are armorial bearings of Sovereigns, Lord Chancellors, and other eminent men of former days.

South of the Lords' Chamber is the Prince's Chamber, an ornate room which serves as an ante-chamber to the House of Lords. It contains twelve bronze bas-reliefs commemorating important events of the Tudor period, and portraits of Tudor royalty. The Chamber also contains a massive marble statue of Queen Victoria seated on the Throne.

The large Royal Gallery lies to the south of the Prince's Chamber. It is used for a variety of purposes, including the trial of Peers, official banquets, and conferences. The two side walls are adorned with large pictures of the battles of Waterloo and Trafalgar. There are also several portraits and gilded statues.

The King's Robing Room, which adjoins the Royal Gallery and overlooks Victoria Tower Gardens, has served

as the Lords' Chamber since May, 1941, when the Commons' Chamber was destroyed by enemy action. Previously this was the room in which the King donned his robes of State before the opening of Parliament. It is much smaller than the normal Chamber of the House of Lords and becomes crowded on important occasions. It is decorated with oak panelling depicting the legend of King Arthur, and five frescos illustrating the virtues of chivalry. The inlaid floor is bordered with heraldic devices. On one side of the marble fireplace is a metal statuette of St. George. The stained glass windows were destroyed by enemy action during the war. At the present time the King's Robing Room contains the two Chairs of State and a replica of the red ottoman known as the Woolsack. There are three rows of red upholstered benches for the Peers. Wooden screens behind the benches provide temporary Division Lobbies.

Both Houses of Parliament have their own libraries. The Lords' Library is housed in four rooms overlooking the Terrace at the south end of the Palace of Westminster. The five rooms of the Commons' Library are at the north end overlooking the Terrace. The Commons' *Journal*, which dates from 1547, used to be kept here but is now in the Public Record Office. One room contains panels listing the names of all the Speakers of the House from Sir Thomas Hungerford,¹ to the present Speaker. One of the rooms contains the mahogany Table of the House which was provided in 1706 by Sir Christopher Wren when St. Stephen's Hall was reconstructed.

Between the two Libraries and overlooking the Terrace are dining-rooms, the Members' smoking room, and a chess room in which is a carved ivory chess set presented to the House of Commons in memory of a cabled chess contest between the House of Commons and the U.S. House of Representatives in 1897. For many centuries Members could not obtain proper meals on the premises, but in 1773

¹ The rolls of Parliament for 1377 contain this entry: "Monsieur Thomas de Hungerford, Chevalier, qui avoit les paroles pour les Communes d'Engleterre en cest Parlement."

John Bellamy opened a small room for supplying food.¹ In 1848, a Committee was appointed to control the Kitchen and Refreshment Rooms. In the centre of the Members' Dining Room is a large oval table which is traditionally reserved for members of the Government.

Between the Dining and Smoking Rooms and the Central Hall is the Lower Waiting Hall in which Members can interview their constituents and other visitors. A stone staircase leads from this Hall to the 16 Committee rooms of various sizes which overlook the Terrace. In 1924 a picture, representing Viscountess Astor (the first woman Member to take her seat) being introduced by Mr. Lloyd George and Mr. Balfour, was hung on the staircase leading from the Hall. A storm of protest arose against a portrait of a living politician being hung in the Palace, and it was removed.

Within the precincts of the Palace are private residences for the officials, the chief of which are those of the Speaker and Serjeant-at-Arms at the north end, and of the Lord Chancellor at the south end.

There is a series of open Courts along the length of the Palace, parallel to the Terrace. From north to south, these are the Speaker's Court (lying in front of his residence), the Commons' Court (adjoining the destroyed Commons' Chamber), the Commons' Inner Court, the Peers' Inner Court, the Peers' Court (adjoining the Lords' Chamber), and the Royal Court (adjoining the Royal Gallery and the King's Robing Room).

The 678-foot Terrace overlooking the river extends from the Speaker's residence to the Lord Chancellor's residence. The Terrace is reserved for Members of the two Houses of Parliament and their friends.

¹ Near Old Palace Yard were formerly two public houses known as "Heaven" and "Hell" which, says J. T. Smith, "were frequented by low company, especially lawyers' clerks". Another tavern existed for a time in the Great Sanctuary of the Abbey: the place was leased by the Dean and Chapter to a Quaker who sold wine by draught, with the result that the place was usually known as "Quaker's Tavern". The Lobby was at one time frequented by orange girls of doubtful respectability. Alice's coffee-house in Westminster Hall and "Jacobs's" in Old Palace Yard also provided refreshments for Members.

Westminster Hall lies between St. Stephen's Porch and New Palace Yard. It is an imposing chamber, 240 feet long and 68 feet wide, with a hammer-beam roof of oak. Part of the roof was destroyed by fire in the air raid on 10th May, 1941, and the oak for repairs was provided from the Wadhurst estate from which the original oak had come. As the Great Hall of a royal palace, it has been used for a variety of purposes. The Law Courts, which spring from the same source as Parliament, sat in Westminster Hall or adjacent buildings from early in the thirteenth century until 1882. It was in the Hall that Simon de Montfort's Parliament of 1265 and the Model Parliament of 1295 assembled. The Hall has also been used for State trials and impeachments, including those of Guy Fawkes, Charles I and Warren Hastings, as well as for coronation feasts and other State ceremonies.

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It is, I suppose, typical of the largely empirical development of parliamentary institutions in this country that our two legislative assemblies should meet in a royal palace. Little did Canute realize when he selected Westminster for his residence that, at the beginning of each session of Parliament, another King—separated from him by a thousand years of time—would enter a Palace on the same site to play his constitutional role in the proceedings of Parliament. The association of Parliament with Westminster is, indeed, close. When the Palace of Westminster was not used during those periods during the last war when London was subjected to heavy air assaults, there was general satisfaction that the sittings of Parliament in Church House maintained the Westminster tradition.¹ "Hitler may have thought that by destroying our Chamber he was delivering a blow against democracy", said the Prime Minister on the occasion of the laying of the foundation stone of the new Chamber. "But the House of Commons is not a building. It is a living fellowship, renewed through the ages, changing in its membership, but always in essence the same."

¹ For seventeen weeks in 1940, 1941 and 1944, both Houses sat at Church House, the building in which the Church Assembly meets.

PROPERTY QUALIFICATIONS IN THE HOUSE OF COMMONS

by W. L. BURN

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IN theory every disqualification affecting membership of the House of Commons is an abridgement of the free choice of the electors who might conceivably wish to entrust their interests to the care of an unnaturalized alien, an undischarged bankrupt, a minor or a government contractor. This they are not permitted to do. Their freedom of choice is subordinated to national policy which fears the disloyalty of unnaturalized aliens, distrusts the prudence of minors and bankrupts, and dreads the contaminating presence of government contractors. Felons who have not been pardoned or served their sentence fall under the same ban as Church of England clergymen, Church of Scotland ministers and Roman Catholic priests. Formerly Roman Catholic laymen were prevented from taking their seats by the necessity of subscribing to the oath of supremacy and the declaration against transubstantiation, and Jews by the necessity of swearing "on the true faith of a Christian". In effect, the nation as a whole has said to the constituencies: "You may not elect members whose loyalty or prudence we cannot be sure of or whose presence, for one reason or another, might prove embarrassing."

These rules were all expressed in the negative form: "thou shalt not be a minor", or a felon, or whatever it was: they were disqualifications. Positive qualifications (so far as they are not simply the other side of disqualifications) have been much rarer. In the reign of Henry V residence in the constituency was made a qualification for membership,

but although it was not abrogated until 1774 it had ceased to be operative by the reign of Queen Elizabeth. The most ambitious and devastating scheme, but at the same time the logical conclusion of the Victorian passion for examinations, was that put forward in 1856 by Lovett, the ex-Chartist. Lovett wanted to see the establishment of intellectual and moral qualifications for membership of the House and proposed the granting by a Court of Examiners of a diploma which would qualify a man to be a parliamentary candidate and, after he had held his diploma for seven years, to be a Minister of the Crown.

The other positive qualification is the subject of this article, the ownership of a certain amount of property of a certain kind. It can, of course, be regarded purely as a "class" measure; what young Barnacle would have called a device "of the nobs to keep out the snobs". In fact, it was rather more than this. At the bottom of it was a desire for that great ambition of our own generation, security. Most Englishmen in the eighteenth century were strongly and habitually suspicious of the government. They were afraid that it might fall under the control of mere adventurers with everything to gain and nothing to lose. The ownership of property, on the other hand, though it was no guarantee of probity, seemed to make probity more likely. An owner of property was the less likely to play fast and loose with the national interest and the national wealth, because he had a tangible share in them.

Property, however, fell broadly into two classes, real and personal; and it was in the distinction between them that the chief conflict arose. Did they connote equal degrees of reliability? The school of thought which carried the day held that they did not; that only real property could provide the requisite degree of security. Why was this distinction made? There are a good many reasons. For one thing, although we are accustomed to imagine that the Reform Acts of 1832 were passed in favour of the unrepresented towns as against the over-represented countryside, the chief complaint against the constitution of the Commons which was

made in the eighteenth century (and which found expression in 1832) was that the countryside was under-represented and the towns, including the small towns, over-represented. As the House contained 403 M.P.s for English boroughs and only 82 for counties there was substance in this complaint. It was also pointed out that the chief form of direct taxation was the land-tax which fell on owners of real property. The main argument, however, for making the ownership of real and not of personal property a qualification was that the former was so much more tangible and so much more easily valued. Land could be seen; its value was fairly stable; it could only be transferred by a slow and tedious process; it did not, as the saying was, "run away" and its owner was the less likely to run away. On the other hand, how was personal property to be assessed? How could one accurately value a share in a London business? And even if one could, what guarantee of stability was there? The business might fail tomorrow or the value of shares tumble to nothing in some financial panic or the holder of them might turn them into cash, pocket the proceeds and take them to France. In the eyes of the provincial Englishman, fearful that some plot was being hatched in London against his interests, real property was something he understood, something that he could see with his own eyes; but personal property was a more mercurial thing, here to-day perhaps and gone to-morrow. As Swift put it, "There could not be a truer maxim in our Government than this, That the Possessors of the soil are the best judges of what is for the advantage of the Kingdom".

It was in the later seventeenth century that the conflict between real and personal property as qualifications for membership of the House of Commons became acute. The reason for this lay in those commercial and financial developments which created great masses of fluid wealth and with it the prospect of unscrupulous lobbying and corrupt influence on a large scale. The revelation that as much as £170,000 had been expended to secure the renewal of the East India Company's charter provoked a revulsion against the moneyed interest comparable to the revulsion against the "profit

motive" which we have ourselves seen of late years. Over and above that, the conflict between the landed and the moneyed interest had become a party conflict. It is a gross over-simplification to say that the Tories represented the one and the Whigs the other. There were many Tory merchants and there were many Whig landowners: indeed, the Whigs, including the Whig dukes, probably owned more land than the Tories. Nevertheless, the majority of country squires and small landowners tended to the Tory side and the larger capitalists to the Whig.

The first of the qualification Bills, providing that country Members must have an income of £500 a year from real estate and borough Members an income of £200, was introduced in 1696, passed through the two Houses and was vetoed by William III. Similar Bills were passed by the Commons in 1703 and 1705 but rejected by the Lords, whose members were apprehensive about the position of their sons. In 1710, following the Tory victory at the polls, yet another Bill was introduced, to become the Qualification Act of that year (9 Anne, c.5). It applied only to England, Wales and Berwick-upon-Tweed; subsequently, after the Act of Union of 1801, its provisions were extended to Ireland but they were never extended to Scotland. By this Act a county Member, a knight of the shire, must be the owner of real property, freehold or copyhold, in England to the value of £600 a year and borough Members, or burgesses, must hold the same qualification to the value of £300 a year. The voters could call upon a candidate to swear that he possessed the requisite qualification and no Member refusing to take the oath could take his seat in the House. The House of Lords was conciliated by exemptions to the heirs and eldest sons of temporal and spiritual peers, and a similar exemption was allowed to University Members.

If the Act had been meant to consolidate the political position of the Tories, its failure in this respect was shown by the Whig triumph of 1714. And in its broader aspect the Act was also a failure. It may possibly have encouraged some moneyed men to expend their capital in purchasing land,

but the desire for security and social prestige were probably more powerful motives. There were two things in particular which the Act failed to reckon with. One was human ingenuity, the same quality which was capable of making the usury laws a dead letter long before they were formally repealed. Not only were the great Whig landowners ready to assign the necessary qualification to landless relatives and friends, but it became the practice to make temporary conveyances, against the spirit but within the letter of the Act, so that a candidate could take the qualification oath without committing perjury although he re-conveyed the real estate in question to the donor later that same day. In 1722, 1731, 1732, 1733, 1734, 1735 and 1739 Bills were introduced to make the provisions of the Act more stringent and effective: the first of these Bills passed the Commons and was rejected by the Lords; the others were beaten in the Commons. The fact was—and this was the second thing which the purists failed to appreciate—that the Act, if it had been strictly complied with, might well have made government impossible. One of its main objects was to secure the election of Members who should be independent. But although the position of an independent county Member was one of great prestige, the presence of many more of them would have been embarrassing to any eighteenth century government. From the official point of view they were too independent. Most of them had no intention of accepting office and most of their constituents would have been shocked if they had accepted. They were sent to London to act as permanent critics of the Government, to sit as a perpetual jury, now voting for the Government, now for the opponents of the Government. When a highly-organized party system exists as it does today the Government, formed from the majority party, is sure of carrying its measures because (as happened in 1945) its supporters have been elected much less for their own virtues than for the virtues credited to their party. They have been sent to the House to support their party and not to parade their independence. In the eighteenth century and well into the nineteenth there was no such highly-organized party system.

The Government of the day was rarely secure and it could only attain a minimum of security by using the political spoils, the places and pensions, which it had at its disposal. For this reason the presence of a large number of Members who were impervious to such appeals would have been embarrassing.

After the failure to pass the 1739 Bill the subject languished in Parliament for a score of years although it was kept alive by pamphleteers. In 1760, however, an amending Act (33 Geo. II, c. 20) was passed, subject to the same exemptions for Scottish Members, University Members and the eldest sons of peers as in the Act of 1710. The most important new provision was that which obliged Members to hand to the Clerk of the House a signed statement of the nature and location of their qualifying property. This statement or schedule, moreover, had to be kept up to date and the Member was bound to swear that he was the true owner of the land in question, which had not been granted to him *ad hoc* for qualifying purposes.

The object, of course, was to stop up the loopholes which had been discovered in the original Act. This object, apparently, was not attained, for a Committee of the House of Commons reported in 1780 that the Act was being constantly evaded. In that year a Bill was introduced to raise the qualification, to extend it to Scottish seats and to increase the penalties for contravention. It made no progress at all and the reasons for this are fairly obvious. For one thing, the strict enforcement of the Act would almost certainly have deprived Parliament of some of its most brilliant Members. It was a matter of common assumption that such men as Pitt, Fox, Burke and Sheridan possessed no qualifications which could bear examination: indeed Fox said quite candidly that the enforcement of the Act "would exclude talents from obtaining entrance into the House". Had the question of qualifications fallen to be examined by a High Court judge (as it would have done from 1868 if the qualifications had still existed then) the Act would no doubt have been rigorously enforced. But by Grenville's Act of 1770 such examinations were conducted by select committees of the House. Were they

really to be expected to conduct an investigation which, according to the *Political Register* of 1806, would have resulted in 100 Members losing their seats? The answer was that they were not. They might be obliged to act in a particularly scandalous case or in one where the objection was very persistently maintained—a Member for Coventry was found to be disqualified in 1802 and a Member for Middlesex in 1805—but usually they preferred the policy of “Live and Let Live”. The only amending Act passed in this period was that of 1819 which allowed Members for English seats to qualify on the basis of the ownership of real estate in Scotland.

With the increasing, though intermittent, demand for parliamentary reform in the eighteen-twenties the question of the qualification was bound to be reconsidered. The earlier reformers such as Cartwright, as fearful as country squires of the moneyed interest, had inclined to make the qualifications effective, but the second generation was against the existence of any qualifications at all. The Birmingham Political Union, for instance, petitioned in this sense in December 1830, and, as is well known, the abolition of qualifications was one of the “six points” of the “People’s Charter” of 1838. It may seem curious at first sight that the Reform Acts of 1832 did not interfere with qualifications. The explanation probably lies in the constitution of the reform party. The struggle for parliamentary reform which culminated in 1832 is usually represented as one between the rising commercial and manufacturing interests and the old landed interests. This is another of the numerous over-simplifications of our history. The landed interest, so far as it was represented by the county Members, was on the whole in favour of parliamentary reform in 1832. In one aspect that reform was its triumph in the long struggle which it had waged against the moneyed interest, the “nabobs” from the West and the East Indies, the City men whom Pitt had so assiduously courted. Many of the pocket boroughs which were abolished had been particularly susceptible to the influence of money, whereas 26 counties had their representation doubled in 1832; Yorkshire, which had possessed four seats since 1821, received

two more and the Isle of Wight received one. The country interest played altogether an important and well-rewarded part in securing parliamentary reform and it was hardly likely that the qualifications which it believed in should be altered, although a proposal to extend them to Scotland was defeated.

The Radicals, who formed the other great wing of the reform movement, were naturally dissatisfied and in the following years a number of Radical motions were introduced for the abolition of qualifications. Hume introduced one in 1835 and Molesworth in 1837, in each case without success. An important change was made, however, by the Act of 1838 (1 and 2 Vict., c. 48) which, though it made no alteration in the exemptions and the oaths, allowed the qualifications (maintained at £600 a year for counties and £300 for boroughs) to be in either real or personal property. This qualification was far more of a "class" measure than the old one which had a basis in political theory deeper than the mere possession of money. The attacks were continued by such Radicals as Sharman, Crawford and Duncombe, and when Lord John Russell introduced his own Reform Bill in February, 1852, it was found to contain a provision for the abolition of property qualifications for M.P.s. "No good end", said Russell, "was attained in retaining the present property qualification of Members of Parliament, seeing that it was so constantly evaded". Russell's Bill came to nothing and when he introduced another in 1854 it left the question of qualifications alone, though it met with no more success. Bills for the abolition of qualifications were introduced by Sir Benjamin Hall in 1854, Murrough in 1855, and by that assiduous reformer Locke King in 1857. All three were beaten in the Commons but in fact success was very near.

It was achieved as the result of a curious and rather tragic event. Beverley was a notoriously corrupt borough—Trollope, who contested it unsuccessfully in 1868, depicted it as "Percy-cross" in *Ralph the Heir*—and in 1857 it was won by one E. A. Glover. Glover's qualification was objected to and the select committee upheld the objection. There was nothing

remarkable about this. What was remarkable and indeed unique was the recommendation by the committee that the evidence be put before the Attorney-General with a view to his instituting proceedings against Glover for perjury. Such action had never been taken before. It is not quite clear why it was taken in this case. Glover may have been personally unpopular or the House may have wished to clear itself of the accusation that it took the whole question of electoral corruption—with which fictitious qualifications were connected—too lightly. Be that as it may, Glover was prosecuted, convicted and sentenced (as he was almost bound to be for such an offence as perjury) to a term of imprisonment. At that the conscience of the House awoke. It was one thing to regard the qualifications as the rules of a game which were broken with impunity in dozens of cases and never, hitherto, had been visited with a heavier penalty than the loss of the seat. It was quite another matter if violation was to result in imprisonment and disgrace. Many Members felt that poor Glover had been chosen as a scapegoat: others, no doubt, began to wonder what would happen to them if their own qualifications were investigated. When Locke King re-introduced his Bill in April 1858 it met with little opposition in either House and became law (21 and 22 Vict., c. 26) on the 28th June, 1858.

In the previous year Locke King had argued that so long as the suffrage was not universal the existence of property qualifications for membership of the House of Commons was unnecessary. Certainly the abolition of those qualifications made little immediate or direct difference in the type and social standing of Members elected. The fact was that a property qualification continued to exist in fact though not in law. Only men with some amount of wealth, or men who were backed by some wealthy organization, could afford to contest elections, to subscribe to innumerable "causes", and to spend most of the year doing unpaid work in London. One approach to the problem was that of the payment of M.P.s, not by their constituencies as was done as late as the seventeenth century, but from national funds. The salary

of £400 a year, instituted in 1911, was raised to £600 in 1937 and to £1,000 in 1946; while the effect of successive statutes has been to diminish the amount of money which may be spent by a candidate, or on his behalf, during an election.

Property qualifications are one of the things which it is very easy, in our day, to be contemptuous of. It is tempting, when the doctrine of private property is much less strongly held than it was, to dismiss property qualifications as absurd or "reactionary". One usually finds, however, that the fundamentals of any constitutional problem have a habit of remaining much the same. What changes is the solution proposed. The problem in this case is that of securing men and women of character and ability for work which is often tedious, which may involve a number of personal disadvantages and which, except for a minority, is unlikely to lead to great fame or fortune. We have examined one line of approach which was abandoned in 1858 and we have noticed briefly what has been done since. The point to be remembered is that there is no perfect and permanent solution. Such success as is attainable is bound to be achieved by steering a careful course to avoid various rocks and shoals. The possession of wealth as the qualification for membership (whether in law or in fact) is clearly undesirable; yet the possession of wealth may sometimes, though not invariably, connote some degree of education, ability and experience of the world. There is a strong, perhaps an overwhelming, case for the payment of Members, but it is much less easy to discover the sum which allows a poor man to serve in the Commons, but will not tie him hand and foot to the party, trade union or other organization which has sponsored him or make him impervious to principles when they might conflict with the retention of his seat. Moreover, there has to be a good deal of empiricism in steering a successful course through such waters. The Qualification Acts which we have examined attempted to prescribe a rigid course and were largely ineffective because the ingenuity of ambitious men and the good-natured tolerance of the majority were too much for the *doctrinaires*.

THE SELECT COMMITTEE ON ESTIMATES, 1946-8

by F. B. CHUBB, M.A.¹

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ON the 18th October, 1945,² Mr. Morrison rose in the House to tell a questioner that the National Expenditure Committee would not be reappointed, that next year normal Estimates would be available, and that the Government intended to appoint an Estimates Committee to examine them. His announcement meant the end of a notable series of war-time committees and the beginning of the third series of Select Committees on Estimates.

For Estimates Committees are, of course, no new feature. During the nineteenth century, isolated committees were appointed from time to time, though the first attempt to set up a permanent series did not occur until 1912. The first experiment from 1912 until 1914 was not a success. The war cut short an unpromising career. The second series started in 1921 and continued until 1939. It, too, was a partial failure. Successive Procedure Committees heard unfavourable opinions of it, and the 1932 Committee said bluntly that it had "failed as an effective instrument".³

The Committee appointed in March, 1946, had terms of reference very like those of its unsuccessful predecessors. Although the Government's motives are not clear, Mr. Morrison's evidence to the Select Committee on Procedure, then sitting, suggests a frank antipathy to the work of the war-time Expenditure Committee.⁴ A strong Committee,

¹ *Acknowledgment.* I wish to thank Mr. Basil St. G. Drennan, Clerk of Financial Committees, and Mr. H. R. M. Farmer, Clerk to the Estimates Committee, for their willingness to answer many questions of fact. The opinions expressed and the inferences drawn are, of course, my own.

² H.C. *Debates*, 18.10.1945. Col. 1369-70.

³ H.C. 129 (1932). Para. 9.

⁴ See H.C. 189-1 (1945-6) Evidence Q 3203 ff. See especially Q 3229.

such as that, with wide terms of reference which allowed it to spread its net too widely in the opinion of many Members, was not to the Government's liking. On the other hand, it seemed improbable that the experience and fine organization of the Expenditure Committees would be jettisoned. In the event, this has proved to be true and the new series bear little resemblance to their predecessors.

The Committee went to work with terms of reference which had hitherto never been successfully translated and with the suspicious eye of Mr. Morrison fixed upon it. On the other hand, it had the experience of five war-time Expenditure Committees still fresh before it, and their staff and organization still available.

It numbered twenty-eight members, recently increased to thirty-six.¹ Its Chairman is Mr. B. V. Kirby. From the beginning, it has worked through sub-committees, continuing, with few changes, the pattern evolved towards the end of the war in the Expenditure Committees. Three regular sub-committees of nine members, plus the Committee Chairman, who is, *ex officio*, a member of all sub-committees, were available for any inquiries. In addition, two other sub-committees have been appointed in each session for special tasks, such as surveys of expenditure in Germany and inquiries into the form of the published Estimates. The enlarged Committee of the present session and lower sub-committee quorum of three instead of four, have made possible the appointment of five regular sub-committees of seven members (plus the Chairman) and it now has a higher potential capacity. This high capacity for work, though a feature of war-time bodies, is new to peace-time financial committees.

To allocate lines of committee inquiry and to co-ordinate the work, a steering sub-committee is appointed. It numbered seven members until the recent modifications, when it was increased to ten. The whole committee meets, initially, to decide its work and machinery and to appoint sub-committees and, thereafter, to consider sub-committee reports. In fact, these reports are usually accepted with few modifications. This

¹ H.C. *Debates*, 17.11.1948. Col. 523-4.

also follows the usual practice of the Expenditure Committees, as do the staffing arrangements. There are available the Clerk of the Committee and five sub-committee clerks, whose work depends upon the demands of their sub-committees. In addition, liaison officers, the use of whom was perhaps one of the most valuable war-time innovations, have been appointed by many Departments to facilitate committee investigations.¹

Evidence is taken orally in the normal fashion, although the small sub-committees can work more informally than could a large body. Information is gathered not only from civil servants, but also from private persons, when they can aid the committee. Civil servants form the majority of witnesses, however. Visits are frequently made and, with the permission of the House, sub-committees have visited Germany, Austria and West Africa. These are the first occasions on which Select Committees have pursued their inquiries outside this country. Published volumes of evidence indicate that these tours are no pleasure trips, and it is not anticipated that members will take to junketing around the world in the fashion of Committees of Congress. The Committee appears to give ample notice to departments of the nature and scope of its intended inquiries and usually asks for preliminary memoranda. Since the object is not to trap departments, but to acquire information and, if necessary, reveal difficulties and black spots, surprise is not necessary, nor even desirable. The deterrent and correcting effect of the knowledge of an impending inquiry is said to be high.

Reports are issued as each inquiry is completed and they appear in a steady stream, each confined to one or a few related subjects. In this, they resemble the war-time reports of the Expenditure Committees, and their style and lay-out are also identical. In the session 1945-6, five routine reports were issued, in 1946-7 the number was seven, and in 1947-8, eight. Besides these, a yearly review of work done and departmental replies have formed the subjects of other

¹ They number thirty-six at present, ranging from a Third Secretary to the Treasury to Assistant Principals.

reports. This practice of publishing departmental replies is useful in ensuring the early attention of departments to criticisms and recommendations.

But the most interesting feature of the new Estimates Committee is the nature and scope of its activities. Its terms of reference directed it to "examine such of the Estimates . . . as may seem fit to the Committee . . . to suggest the form in which the Estimates shall be presented . . . and to report what, if any, economies consistent with the policy implied in those Estimates may be effected therein".¹ Its members were faced, as their predecessors before them, with the difficulty of translating into action the words "examine . . . the Estimates". Experience had shown clearly that for M.P.s to examine complicated volumes of figures in the hope of alighting on possible reductions was a futile procedure. The expert Treasury officers had already done their best in this respect at an earlier stage. For amateurs to attempt to better their work was foolish. While Parliament has a right and a duty to supervise the administration, experience down the years in the financial committees has shown nothing so clearly as that no committee achieves results unless it works with the Treasury and the Departments and not against them. A committee puts itself on the other side of the fence when it attempts to tamper with the Estimates and, in any case, it is not equipped to do so. On the other hand, the National Expenditure Committee had shown that properly organized bodies could promote economy without working through money Estimates and perhaps because of it.

So far, it seems that the Committees have interpreted the word "Estimates" to mean current activities. They are making a selective review of administrative activity on the grounds that, whatever the inquiry, there can be found somewhere in the published volumes a sum of money representing it. Members expressed their views of their function in the Third Report of 1946-7, when they said,² "As the body charged with examining the Estimates, Your Committee's

¹ See H.C. Debates, 5.3.1946. Col. 297-8.

² H.C. 132 (1946-7). Para. 74.

principal task is to report to the House *whether the nation's money is being well laid out*¹ within the limits of the policy implied in these Estimates".

The choice of lines of action seems to have been made in three main ways. First, current public interest or doubts and the interests of members have led to inquiries. The Report on the Use of Motor Fuel by Government Departments is an example.² Second, some items in the published Estimates stand out and cry for investigation. The Report on the Civil Service Commission is a clear case.³ Finally, one inquiry often leads to others. The investigation into the cost of Displaced Persons in Germany⁴ arose out of earlier surveys of Control Office expenditure, while the inquiry into the cost of the Brabazon⁵ arose out of the survey of the Ministry of Civil Aviation.

Looking at the scope of the work, it is possible to say after three years that there are four main types of inquiry. First, Committees have reviewed activities represented by "blocks of expenditure", as, for example, their reviews of the work of the Control Office,⁶ of Colonial Development,⁷ and of Expenditure on Research.⁸ Second, they have reviewed the organization, work and financial affairs of departments and other bodies spending public money. Such reviews were those of the B.B.C.,⁹ the Ministry of Civil Aviation¹⁰ and the British Council.¹¹ Third, they have investigated a series of current problems, some confined to one department, others concerning more than one. Investigations of this sort were those into the Release of Requisitioned Property,¹² Organization and Methods and its Effect on the Staffing of Government Departments,¹³ and the Use of Royal Ordnance Factories and Royal Naval Establishments.¹⁴ Finally, they have investigated suspected black spots, either as a result of public doubts, or where unusual figures occurred in the Estimates. The Reports on the Use of Motor Fuel and on the

¹ My italics.

² H.C. 193 (1947-8). ³ H.C. 203, 205 (1947-8).

⁴ H.C. 62 (1947-8). ⁵ H.C. 98 (1947-8). ⁶ H.C. 170 (1945-6).

⁷ H.C. 181 (1947-8). ⁸ H.C. 132 (1946-7). ⁹ H.C. 158 (1945-6).

¹⁰ H.C. 144 (1946-7). ¹¹ H.C. 99 (1947-8). ¹² H.C. 96 (1946-7).

¹³ H.C. 143 (1946-7). ¹⁴ H.C. 200 (1947-8).

Civil Service Commission may be cited as examples. In addition, the Committees have naturally considered questions relating to the form of the Estimates and, in 1947 and 1948, maintained sub-committees for that purpose.¹

At first sight, the similarity between this work and that done by the war-time Expenditure Committees appears striking. But it would be wrong to suppose that the new body is the National Expenditure Committee in peace-time guise. Marked dissimilarities are apparent. The Estimates Committees have spread their net nothing like so widely as the war-time Committees. They have attempted no broad "horizontal" surveys of the widest sort such as those on labour, production and contracts, which were a feature of the war. At the other end of the scale, the Estimates Committees have not conducted any of the minor "case" type inquiries into specific allegations of waste or inefficiency. This type of investigation depends upon information from the public and practically no letters of complaint are now received.

But the most significant difference is one of approach. The Estimates Committees tend to stress financial aspects and implications much more specifically than did the Expenditure Committees. They are, after all, "Estimates" Committees, and this has had the effect of anchoring inquiries more firmly to finance. Thus, while like the war-time committees, members clearly realize that estimates and accounts are but reflections of the use of labour and material, and that it is to the latter that attention must be directed, they have related inquiries to financial considerations much more clearly than could the war-time body. At the same time, they do not work from the Estimates in the slavish manner which earlier committees found so futile. They are not trying to do the Treasury's job over again. While they are interested in the money figures which represent the cost of action, they go straight to questions of organization and methods which lie behind the figures. The most useful report of the series so far, the Fifth Report of 1946/7 on "Organization and Methods and its Effect on the Staffing of Government

¹ See H.C. 135 (1946-7).

Departments",¹ illustrates well this attitude. Following the lead of the Expenditure Committees, members have always stressed the need for "planning the structure and machinery of Government rather than . . . attending to its plumbing and maintenance".²

Reaction to the Committees' work has, so far, been encouraging. In view of the failure of earlier Estimates Committees and of the opposition which the Expenditure Committees aroused, this is a matter of some importance. To succeed, Committees must win the approval of both the Treasury and Departments and of the House. It was desirable for the Estimates Committees to avoid the verdict of "useless", which was the fate of its predecessors and of "dangerous", which was attached to the war-time bodies.

In 1946, it did not look a strong committee. Only four Expenditure Committee members were included, and no less than fifteen of the twenty-eight were newcomers to the House. Though such experienced committee men as Sir Ralph Glyn are leading sub-committees, the proportion of newcomers is still high. So far as can be ascertained, Treasury and departmental replies to Reports appear to have been generally satisfactory, although Sir Ralph Glyn has had occasion to complain of inaction to the Treasury witness. "You will not", he said, "get members to spend their time on a committee like this unless action is taken on recommendations".³

Whatever the impact on Departments, it is clear that the House is impressed. The Committees have been fortunate in that they could adopt tried procedures and techniques, but members have undoubtedly worked hard and have learned quickly. Attendance has been higher than at any previous peace-time financial committee, and reports have appeared in a constant stream. Many of them are topical and contain much useful information, and the result is that they are being mentioned in debate more frequently than

¹ H.C. 143 (1946-7).

² H.C. 143 (1946-7). Para. 49.

³ H.C. 135 (1946-7). Evidence Q. 114.

ever before. Some have been used as the basis for Supply debates,¹ and one has been discussed on the Address.² Others have been cited in debate or have been the subject of questions. In the course of these references, the Committees have received very favourable mention. Mr. Bevin noted the "constructive and helpful approach"³ to German affairs, while Mr. Noel-Baker, in the course of a eulogistic passage,⁴ said that the Report⁵ would "not only furnish the House with the basic facts", but would be "useful in a high degree to the Government". The Administration would "receive valuable stimulus". In addition, the press has given a great deal of publicity in its desire to highlight anything which reinforces the commonly held view that Government spending is too high.

The result of this attention is that M.P.s are coming to recognize the Committee as a useful body and a great improvement on its predecessors. This recognition is reflected in the growing numbers of Members who are said to desire to serve, and it is to be noted that the enlarged Committee of this session includes some of the younger Conservatives who are anxious to join a Committee already strong in rising young Members.

It is too early yet for conclusions to be more than hesitating and tentative. It is clear, however, that the organization and procedure evolved by the National Expenditure Committees during the war is of great value in peace conditions. The fruits of war-time experience have enabled these Committees to work efficiently and maintain a high output. It appears also that the limitations and possibilities of an "Estimates" Committee may have been realized at last.

¹ e.g., See H.C. *Debates*, 29.7.1946. Col. 525 ff. Also 22.7.1948. Col. 597 ff.

² See H.C. *Debates*, 27.10.1947. Col. 517 ff.

³ loc. cit. Col. 597.

⁴ H.C. *Debates*, 29.7.1946. Col. 540.

⁵ H.C. 170-1 (1945-6).

THE AMERICAN GOVERNMENT—III

In this third extract from Our American Government: What Is it? How Does it Function? compiled by Representative Wright Patman and published by the United States Government Printing Office, the questions and answers are concerned with the Executive Branch of the Government of the United States. Earlier issues of Parliamentary Affairs have included extracts relating to the Constitution, elections, and the States (Autumn 1948 issue), the Capitol, Government Printing, the Congressional Record, the Library of Congress, Patriotic Symbols; and the National Anthem (Winter 1948 issue). Further extracts relating to the Judiciary and both Houses of Congress will appear in future issues.

Question: What qualifications are prescribed for the President?

Answer: He must be a natural-born citizen, at least 35 years old, and for at least 14 years a resident of the United States.

Question: What is the wording of the oath taken by the President?

Answer: The form of oath for the President is prescribed by the Constitution as follows:

I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.

Question: How was the date determined for the beginning of the first President's term of office?

Answer: The Constitutional Convention, when the new Constitution had been finally approved and signed, ordered that when it had been ratified by nine States, the Congress should fix a day for commencing proceedings under the new form of government. Accordingly, in 1788 Congress by resolution appointed 4th March, 1789, as the day and

President Washington's term commenced as of that date although actually he was not inaugurated until 30th April.

Question: What is now the date for commencement of the President's term?

Answer: Under the twentieth amendment, effective beginning with President Franklin D. Roosevelt's second term in 1937, the term of office of the President commences at noon on 20th January. President Franklin D. Roosevelt was inaugurated the first time 4th March, 1933. He died 12th April, 1945, while serving his fourth term and having served as President 12 years 1 month and 8 days.

Question: Why did President Wilson arrange to resign the Presidency so a Republican could succeed him by circumventing the constitutional succession of the Vice-President and the Secretary of State?

Answer: When it looked as though Hughes was elected in 1916, Wilson contemplated asking Vice-President Marshall and Secretary of State Lansing to resign—then appointing Hughes Secretary of State, then resign himself—thus eliminating a period during which the country would be still going along under a leader who had been repudiated.

Question: What President has served the shortest length of time?

Answer: William Henry Harrison, who died in office, served only from 4th March to 4th April, 1841.

Question: How many Presidents have served two complete terms?

Answer: Nine: Washington, Jefferson, Madison, Monroe, Jackson, Grant, Cleveland, Wilson, and Franklin D. Roosevelt.

Question: How many Presidents have died in office?

Answer: Seven: William Henry Harrison, Zachary Taylor, Abraham Lincoln, James A. Garfield, William McKinley, Warren G. Harding, and Franklin D. Roosevelt. Only Zachary Taylor and F. D. Roosevelt died in office while Congress was in session.

Question: Has a President ever been impeached?

Answer: Andrew Johnson is the only President so far impeached. The trial in the Senate lasted from 25th February

to 26th May, 1868, and resulted in acquittal by a vote of 35 for impeachment to 19 against, one less than the two-thirds vote necessary for conviction.

Question: Has any President been inaugurated more than twice?

Answer: Yes; the precedent was broken by President Franklin D. Roosevelt being inaugurated the third time 20th January, 1941, and a fourth time 20th January, 1945.

Question: What is the oldest Federal building in Washington?

Answer: The White House, which was begun in 1792 and first occupied in 1800 while still unfinished. It is of European Renaissance style rebuilt 1815-17, after its destruction by the British, according to the original plans and by the original architect, James Hoban.

Question: Has the White House ever been destroyed?

Answer: Yes; it was burned by the British during President James Madison's occupancy on 24th August, 1814.

Question: How many Presidents have died in the White House?

Answer: Two: William Henry Harrison about a month after taking office, and Zachary Taylor.

Question: What provision is made in case of the death of a President in office, or his removal, resignation, or disability?

Answer: In any such case the Vice-President, under Constitution Article II, Section 1, exercises the powers and duties of President. And under authority of this same section, Congress, by the so-called Presidential Succession Act of 1886, has provided for the further contingency of the death, removal, resignation, or disability of both President and Vice-President by authorizing the Cabinet officers, in order of precedence, "to act as President until the disability of the President or Vice-President is removed or a President shall be elected". No Cabinet officer has ever been called on to act under this provision.

The order of precedence is: Secretary of State, Secretary of Treasury, Secretary of War, Attorney General, Postmaster General, Secretary of Navy, Secretary of the Interior.

Question: Why were the Secretaries of Agriculture, Commerce, and Labour omitted from the succession?

Answer: The Succession Act included all the Cabinet members then provided for. The Department of Agriculture was not established as an executive department until 1889, the Departments of Commerce and Labour until 1913.

Question: Who becomes President if a President-elect dies or is disqualified before the date fixed for the beginning of his term?

Answer: Under the twentieth amendment, the Vice-President-elect becomes President in case of death of the President-elect before inauguration; if the President-elect fails to qualify, however, the Vice-President-elect acts as President "until a President shall have qualified".

Question: Suppose the President-elect and the Vice-President-elect should both fail to qualify on inauguration day, who would become President of the United States?

Answer: No law has yet been enacted that would provide for this contingency, although such law is authorized by the twentieth amendment to the Constitution.

Question: What is the present salary of the President?

Answer: The salary of the President was originally fixed at \$25,000, and was raised to \$50,000 in 1873. By an act of 1909 Congress again raised it, this time to \$75,000 a year. However, by a later revenue act, applicable to Presidents taking office after 6th June, 1932, this official salary is to be counted as a part of the President's "gross" income for purposes of computing income tax, and the act fixing the salary at \$75,000 was "amended accordingly".¹

Question: What allowances does a President receive?

Answer: The President lives officially in the White House, although curiously enough the law on the statute books merely grants him the use of furniture and other effects belonging to the United States and kept in the Executive Mansion. He also has the use of \$25,000 annually for travelling and entertainment expenses—which is accounted for on his certificate solely.

¹ There have recently been new proposals for an increase in the President's salary.

Question: If a President desires to resign to whom should his resignation be addressed?

Answer: To the Secretary of State.

Question: What official privileges, if any, are extended to an ex-President?

Answer: An ex-President is by law entitled to receive one copy of the daily Congressional Record, and to the use of the Library of Congress.

Question: Has an ex-President ever served in Congress?

Answer: John Quincy Adams, after his term as President (1825-29), was elected to the House of Representatives for nine terms, serving from 1831 to his death in 1848.

Andrew Johnson, President from 1865 to 1869, was elected to the Senate from Tennessee, and served from 5th March, 1875, to his death on 31st July, 1875.

Question: How many Presidents have been elected to that office after service in Congress?

Answer: Nineteen, not counting two (John Adams and Thomas Jefferson) who had been members of the Continental Congress. Of the 19, six had served only in the House, six only in the Senate, and seven in both Houses (Andrew Jackson, William Henry Harrison, John Tyler, Franklin Pierce, James Buchanan, Andrew Johnson, and James A. Garfield).

Question: What ex-Presidents have held Federal office (other than as Members of Congress) after their Presidency?

Answer: George Washington, President from 1789 to 1797, was appointed by President John Adams "Commander-in-Chief of the Army" in 1798 when war threatened with France.

William H. Taft, President from 1909 to 1913, was Chief Justice of the United States Supreme Court from 1921 to 1930.

Question: Has a President ever been married in the White House?

Answer: Grover Cleveland married his ward, Francis Folsom, in the White House on 4th June, 1886.

Question: Which Presidents were related?

Answer: John Quincy Adams, the sixth President, was a son of John Adams, the second President. Benjamin Harrison, the twenty-third President, was a grandson of William Henry

Harrison, the ninth President. Zachary Taylor, the twelfth President, was a second cousin of James Madison, the fourth President. Madison and Taylor were great grandsons of James Taylor and Martha Thompson. President Franklin D. Roosevelt was a fifth cousin, and his wife a niece of a former President, Theodore Roosevelt.

Question: Why is the President's wife called the First Lady?

Answer: The President's wife is called the First Lady of the Land because the Presidency is regarded as the highest position any man can attain in the country, and his wife is given social precedence over all other women. When the President is not married, the woman who presides socially over the White House is called the First Lady of the Land.

Question: What privileges or allowances have been granted to widows of Presidents?

Answer: Pensions of \$5,000 annually have been granted to the widows of Presidents Tyler, Polk, Lincoln, Grant, Garfield, Cleveland, Benjamin Harrison, McKinley, Theodore Roosevelt, Taft, Wilson, and Coolidge.

The franking privilege has been granted to the widows of Presidents Washington, Madison, John Quincy Adams, William Henry Harrison, Polk, Taylor, Lincoln, Grant, Garfield, Cleveland, Benjamin Harrison, McKinley, Theodore Roosevelt, Taft, Wilson, Harding, Coolidge, and Franklin D. Roosevelt.

All of the above privileges were granted by special act of Congress; that is, it is a matter of grace rather than of legal right.

Question: Does the President ever appear personally before Congress to deliver his message?

Answer: Presidents Washington and John Adams both appeared before the two Houses in joint session and read their messages in person. This practice was discontinued by Jefferson and for over 100 years the Presidents sent their messages to be read in both Houses by the Clerk. Again in 1913 President Wilson addressed the Congress in person, and the same method was used by President Harding; with the

aid of the radio, President Coolidge read his earlier messages to both Congress and the country. But beginning with December 1924, he resumed the old practice of transmitting messages to Congress in the form of State papers. The custom of reading important messages to Congress in joint session was followed by President Franklin D. Roosevelt. President Truman appeared before Congress on 16th April, 1945, four days after taking the oath.

Question: What State has supplied the most Presidents?

Answer: Virginia has been the birthplace of eight Presidents: Washington, Jefferson, Madison, Monroe, William Henry Harrison, Tyler, Taylor, Wilson. Ohio is second, as the birthplace of seven.

Question: Does the President ever wear a uniform?

Answer: Although the President of the United States is Commander-in-Chief of both the Army and Navy, he is a civilian. American tradition does not permit him to wear a uniform representing any branch of the military or naval service.

Question: Who administers the oath to the Vice-President?

Answer: Ordinarily, the retiring Vice-President; if there is none, then the president *pro tempore* of the Senate.

Question: What other official title does the Vice-President bear?

Answer: President of the Senate.

Question: Does the United States furnish an official residence for the use of the Vice-President?

Answer: No. The matter has been seriously considered at various times, to the extent of introducing legislation on the subject. Mrs. Henderson more than once offered (as late as 1931) to give the United States a suitable mansion, on Sixteenth Street, but the offer was not accepted.

Question: Who was the first Vice-President to sit regularly with the Cabinet?

Answer: Calvin Coolidge, at the invitation of President Harding, was the first Vice-President to sit regularly with the Cabinet. There are early instances of a Vice-President being included in Cabinet meetings, but all of them occurred during

the first five years of Washington's administration before the composition of the Cabinet had been clearly defined.

Question: What Vice-President refused to sit with the Cabinet?

Answer: Vice-President Charles G. Dawes, although invited by President Coolidge to sit with the Cabinet, summarized his objection to the inclusion of the Vice-President in the Cabinet as follows:

Long before I had any thought that I would have an individual interest in the question, I said the plan of having the Vice-President sit with the Cabinet was unwise. The Cabinet and those who sit with it always should do so at the discretion and inclination of the President. Our Constitution so intended it. The relationship is confidential and the selection of a confidant belongs to him who would be injured by the abuse of confidence, however unintentional. No precedent should be established which creates a different and arbitrary method of selection. Should I sit in the Cabinet meetings, the precedent might prove injurious to the country. With it fixed, some future President might face the embarrassing alternative of inviting one whom he regarded as unsuitable into his private conferences or affronting him in public eye in denying him what had been generally considered his right.

Question: How many Vice-Presidents have succeeded to the Presidency by reason of a vacancy in that office?

Answer: Seven. John Tyler served all but a month of President William H. Harrison's term; Millard Fillmore served over half of Zachary Taylor's term; Andrew Johnson served all but about a month of Lincoln's second term; Chester Arthur served about three and a half years of Garfield's term; Theodore Roosevelt served about three and a half years of McKinley's second term; and Calvin Coolidge filled out about one and a half years of Harding's term. Vice-President Truman succeeded to the Presidency less than three months after the commencement of President Roosevelt's fourth term.

Question. Has a Vice-President ever resigned?

Answer: The only Vice-President who has thus far resigned

is John C. Calhoun, who resigned on 28th December, 1832 (his term running to 3rd March, 1833), to become Senator from South Carolina, vice Robert Hayne, resigned.

Question: What is the Cabinet?

Answer: The Cabinet comprises the heads of the ten executive departments of the Government. It has no official duties or responsibilities as such but is recognized as constituting the President's regular board of advisers, meeting usually each week in the Cabinet Room of the Executive Offices. Cabinet members receive a salary of \$15,000.

Question: What was the so-called Brain Trust during President Franklin D. Roosevelt's first term?

Answer: For close personal advice and help on Government policies the President informally and unofficially selected a group of personal advisers in addition to his official Cabinet who, because picked in many instances from college professors, became known as the Brain Trust. Back in President Jackson's administration, such an informal group was called the Kitchen Cabinet because the President was so familiar with them. President Theodore Roosevelt had a small group of advisers from some of the departments who were called the Tennis Cabinet because most of them played and enjoyed the game of tennis.

Question: In what respect does the Postmaster General stand on a different footing from other Cabinet members.

Answer: The Postmaster General is appointed to hold office during the term of the President and one month thereafter; all the other Cabinet members are appointed with indefinite tenure.

Question: Has any President ever vetoed a Bill that he had theretofore signed?

Answer: Yes. President Truman vetoed a private Bill as President of the United States which he had signed as President of the Senate when he was Vice-President.

CORRESPONDENCE

WOMEN IN LEGISLATURES

Sir,

In the winter issue of *Parliamentary Affairs*, Lady Megan Lloyd George, M.P. states in an article entitled "Women in Legislatures" that "There are women deputies in all European and Commonwealth Parliaments as well as in the Latin-American Republics and the United States Congress."

For the purposes of your records I feel it should be pointed out that in Switzerland, so far as I can ascertain, there is no female suffrage and there are no elected women representatives at any level from the Commune to the Federal State.

Yours sincerely,

A STUDENT
(Geneva University)

Chantemerle,
Genthod, Geneva

Sir,

Since the Winter number of *Parliamentary Affairs* appeared, women's societies working in the political field have expressed their thanks to Lady Megan Lloyd George for her valuable article on "Women in Legislatures". The Women for Westminster and citizenship movements particularly welcomed it as a convincing record of the value of women's public work in influencing legislation for the benefit of the community.

But it was not to be expected that in the few pages available Lady Megan could condense a complete record even if all the research necessary had yet been done; and we wish to suggest that such a piece of research and such a record is desirable.

To the impressive list in Lady Megan's article there could be added the names of other women who have held office or

promoted legislation. Thus: Miss Florence Horsbrugh, Parliamentary Secretary to the Ministry of Health, 1938-45, who promoted the Bill for the Registration of Adopted Children; Dr. Edith Summerskill, now occupying a like position in the Ministry of Food, who recently introduced the Pure Milk Bill; in the earlier days Mrs. Philipson, who was responsible for a Bill for the Registration of Nursing Homes, and Miss Picton Turberville who had a junior ministerial appointment and introduced into the House her Sentence of Death (Expectant Mothers) Bill; while to Ellen Wilkinson's work as Cabinet Minister must be added her influence on legislation for the Distressed Areas and her Hire Purchase Bill for the protection of poor "instalment" purchasers.

To make the survey complete two other aspects of women's influence on legislation need to be considered and documented: the first is their propaganda and indirect pressure on Parliament to get the right of direct voting, with some indication of the kind of laws they sought and worked for from, say, 1830 until the vote was won; the second is the effect the presence and activity of the few "token" women M.P.s has had on the speeding-up of social legislation and the checking of the phrasing and drafting of Bills which would have imposed or continued unintended injustice.

Finally no assessment of what women legislators have accomplished in the House of Commons can be accepted as complete which does not take into account the limitation of the time and opportunity of the Private Member. Government claims on the available time leave little opportunity for Private Members' Bills and the competition of 22 women with 620 men in the Ballot reduces their chances to the microscopic. They turn therefore to friendly male M.P.s and much of women's desires in legislation has been introduced into the House in this way. The recent Analgesia Bill is a case in point.

With the Declaration of Human Rights heralding a new world for all those who have to endure social, legal or economic discriminations the factual record of our own women's past and present achievements assumes an international as well as a national value. It is our hope that funds may be made available

CORRESPONDENCE

so that the Hansard Society or some other organization can undertake the necessary research and publish the results.

Yours faithfully,

T. BILLINGTON GREIG

72a Belsize Park Gardens,
London, N.W.3

THE INSTITUTION OF PARLIAMENT

Sir,

In the Report by the Council for the year 1947-48 occur these words: "Experts declare that it is impossible accurately to define the meaning of the phrase *parliamentary institutions*, but in the practical day to day work of the Society the words *parliamentary institutions* are taken to mean 'Freely elected, freely debating, legislative bodies at or above the Provincial or State level'."

It had occurred to me that some of your readers might be able to suggest variants of this definition which would describe more precisely the institutions to which the Hansard Society is devoted, and to start the ball rolling I put forward, with some hesitation, the following definition for consideration by the experts.

"Parliament is an institution of government, an essential part of which is one or more freely-elected assemblies possessing legislative, and in some cases executive and judicial, powers and whose decisions, except in matters specifically allotted to Provincial, State, or local authorities, cannot be interfered with by any other authority or branch of government except, by convention or in accordance with a written Constitution, by a judicial authority on the grounds that a decision is unconstitutional."

Yours sincerely,

A. D. H. S.

London,
S.W.1

BOOKS RECEIVED

The inclusion of a book in this list does not preclude its review in a subsequent issue of Parliamentary Affairs. Any of the books in the list or reviewed on pages 306 to 321 can be ordered through the Hansard Society.

CADART, JACQUES. *Régime électoral et régime parlementaire en Grande-Bretagne.* Cahier No. 5 of the National Foundation of Political Science. Librairie Armand Colin (103 Boulevard Saint-Michel, Paris 5e).

CAMBA, FRANCISCO. *La Caída de Alfonso XIII.* Madrid: Instituto Editorial Reus.

CORRAL, LUIS DIEZ DEL. *El Liberalismo Doctrinario.* Madrid: Instituto de Estudios Politicos.

DAWSON, ROBERT MACGREGOR. *The Government of Canada.* University of Toronto Press (London: Cumberlege). 30s.

EDELMAN, MAURICE. *Herbert Morrison.* Lincolns-Prager. 7s. 6d.

FRASER, W. I. R. *An Outline of Constitutional Law.* Hodge. 18s.

FRIEDMANN, W. *The Planned State and the Rule of Law.* Melbourne University Press (London: Cambridge University Press). 2s. 6d.

HARRIS, G. MONTAGU. *Comparative Local Government.* Hutchinson. 7s. 6d.

LASKI, HAROLD J. *The American Democracy.* Allen & Unwin. 25s.

PALANDE, M. R. *A Textbook of Indian Administration.* Tenth Edition. Madras: Oxford University Press. (London: Cumberlege). 11s. 6d.

PALANDE, M. R. *Introduction to Indian Administration.* Fourth Edition. Bombay: Oxford University Press. (London: Cumberlege). 6s. 6d.

PORTUS, G. V. *The Concept of Sovereignty.* Melbourne University Press. (London: Cambridge University Press). 2s. 6d.

Revista Española de Seguridad Social. Madrid: Instituto Nacional de Prevision.

SAWER, GEOFFREY. *Australian Government To-day.* Melbourne University Press. (London: Cambridge University Press). 2s. 6d.

SNYDER, RICHARD CARLTON; and WILSON, H. HUBERT (Editors). *Roots of Political Behaviour.* New York: American Book Company. \$5.25.

WILSON, C. H. (Editor). *Essays on Local Government.* Oxford: Blackwell. 18s.

GOVERNMENT PUBLICATIONS

The Government publications listed on this page are mainly of parliamentary or constitutional interest. All Government publications, including Hansard for the House of Lords and House of Commons (daily parts, weekly editions, or bound volumes) can be ordered through the Hansard Society.

Administration of Justice (Scotland) Bill. (H.L. 24). 1d.

Consolidation and Statute Law Revision Bills. First Report by the Joint Committee. (H.L. 29, 33-1, H.C. 60-1). 4d.

County Courts. Accounts for 1947. (H.C. 51). 2d.

Disabled Persons in Government Employment. (Cmd. 7591). 1d.

Election of County, Borough and District Councillors. Notes for Candidates. 2d.

Election of Parish Councillors. Notes for Candidates. 1d.

Higher Civil Service Remuneration. Report of the Committee. (Cmd. 7635). 4d.

His Majesty's Ministers and Heads of Public Departments. 6d.

House of Commons Members' Fund. Accounts 1947-8. (H.C. 88) 2d.

House of Lords Offices. Second Report by the Select Committee. (H.L. 70). 1d.

Kitchen and Refreshment Rooms. Report from the Select Committee. (H.C. 68). 2d.

Local Government Financial Statistics, 1945-6. 3d.

Parliamentary Elections. Returning Officers (Scotland) Order, 1948. 1d.

Public Accounts. Report from the Committee. (H.C. 104). 1d.

Standing Orders of the House of Commons. (H.C. 17). 5s.

Statutory Instruments (Parliamentary Control) Bill. (H.C. 69.) 1d.

Statutory Instruments, Select Committee on. Second Report (H.C. 23) 2d. Minutes of Further Proceedings (H.C. 55) 2d. Minutes of Further Proceedings (H.C. 64) 1d. Third Report (H.C. 85) 2d. Minutes of Further Proceedings (H.C. 100) 1d. Minutes of Further Proceedings (H.C. 116) 1d.

Supreme Court of Judicature. Accounts 1947-8. (H.C. 18). 3d.

Terms of Union of Newfoundland with Canada. (Cmd. 7605). 6d.

Tribunal Appointed to inquire into Allegations reflecting on the Official Conduct of Ministers of the Crown and other Public Servants. Report. (Cmd. 7616). 1s. 6d.

Universal Declaration of Human Rights. (Cmd. 7662). 2d.

University Awards. Report of Working Party. 9d.

BOOK REVIEWS

The American Democracy. By Harold J. Laski. Allen & Unwin. 25s.

The Americans. By Geoffrey Gorer. The Cresset Press. 10s. 6d.

Mr. President. By Maurice Ashley. Jonathan Cape. 21s.

Our American Government. By Wright Patman. Chicago: Ziff-Davis Publishing Co. \$1.50.

Woodrow Wilson: A Selected Bibliography of his published writings, addresses and public papers. By Laura Shearer Turnbull. Princeton University Press (London: Cumberlege). 11s. 6d.

Books about the American system of government have never been more timely and useful than they are now, when the intelligent citizen of the non-Communist world is watching with the keenest interest the decisions of the Administration and the deliberations of Congress. European Recovery Programme, North Atlantic Pact—in these and other ways what goes on in Washington affects almost everyone.

The alert citizen of the world can best begin his reading with *The American Democracy*, by Professor Harold J. Laski. This is a massive commentary on every aspect of the American scene, from Professor Laski's favourite topic of the Presidency all the way down to the cinema. In addition to the discussions of a number of facets of American life, there are larger meditations on the spirit of America, its future role in the world, and Americanism as a principle of civilization.

Things move quickly nowadays, even in the United States, and many of Professor Laski's observations, accurate enough when written, read rather curiously now. Fortunately, the well-informed reader will usually be amused rather than misled. In any event, the most valuable portions of the

book, those dealing with American political institutions, have not dated at all.

Readers of *Parliamentary Affairs* will turn first to the discussion of Congress in the chapter on Federal political institutions. But Professor Laski does not neglect the forty-eight State legislatures. These provide a large number of energetic American citizens with a training in Parliamentary practice which some of them can later put to good use at the national level.

It must be admitted that neither House of Congress has attained anything like the prestige of the British Parliament. Members of the House of Representatives are elected for a two-year term, and most of them are too busy ensuring their re-election to have much time for statesmanship. Worse still, they are required to reside in the State from which they are elected (and, by almost universal custom, in the actual constituency). This means that they can ill afford to ignore narrow local interests in order to legislate for the good of the nation as a whole.

The Senate, whose members enjoy a six-year term of office, has done much better, and Professor Laski goes so far as to term it "an outstanding success". It is probable, however, that its defects will become more and more apparent as time goes on. The fact that debate is unlimited has enabled it to concentrate national interest on the discussion of important issues in a way quite beyond the power of the House of Representatives. But this freedom of debate will be increasingly exploited by Southern Senators to obstruct forward-looking measures, and particularly to preserve the "peculiar institutions" of the South and to keep the Negro minority in subjection. In the coming period, the Senate may well take the place of the Supreme Court as the stronghold of die-hard reaction, and such a development will do its reputation no good.

One word of caution is necessary. Professor Laski seriously understates the differences between the two major American parties. In some measure this is because, as a good British Socialist, he much exaggerates the distinction between the Labour and Conservative Parties. He is rash enough to write

(it must have been years ago!): “. . . if there is a real difference between the philosophy of the party in power and the party in opposition, it is nowhere more likely to be evident than in foreign affairs.” But in part, too, it is because he has not taken into account the great changes in party alignments which the sixteen years of New Deal administration have brought about. Outside the South, the Democratic Party has become the party of the underprivileged, and the Republican Party the party of the well-to-do. The proportion of working men in America who are Republicans is no greater than the proportion in England who are Conservatives.

Mr. Gorer solemnly announces that he has sought to apply, in *The Americans*, “some of the methods and the insights of cultural anthropology”. Readers will do well to take this statement with a large grain of salt and enjoy the book for what it is—a witty commentary on American folkways, as seen in passing by a typical Bloomsbury intellectual. As such it is often penetrating, sometimes irritating, but almost always a stimulus to thought and argument.

Mr. Gorer attributes the weakness of authority in American government to the fact that Americans are an immigrant people. The children of immigrant parents tended to regard their father with contempt. They saw that, when he mingled with native-born Americans, he was at a great disadvantage—he did not know the customs, could not keep up with the pace, and often had difficulty with the language. Hence they grew up without the influence of that patriarchal authority which is so strong in most of Europe and Asia. This contempt for authority they now manifest in public as well as in private life. “Government is a necessary evil; commonly more emphasis is put on the evil than on the necessity.”

Mr. Gorer paints the founding of the United States and the framing of its Constitution in downright Freudian terms. “In Freud’s ‘Just So’ story, the downtrodden sons combine together to kill the tyrannical father; then, overwhelmed by their crime, and fearful that one of their number will attempt to take the murdered father’s place, they make a compact which establishes the legal equality of the brothers, based on

the common renunciation of the father's authority and privileges." It is a parable with real point.

He notes with approval the comments by Professor Laski on the alternation of strong and weak Presidents, and says: "A strong president represents a moral threat; a weak one . . . brings the country dangerously near anarchy, for the careful provisions of the Constitution prevent any other group exercising his necessary authority."

It is the strong Presidents with whom Mr. Ashley deals in his collection of biographies, *Mr. President*. Washington, Jefferson, Jackson, Lincoln, Theodore Roosevelt, Wilson are his subjects—he does not attempt the second and much greater Roosevelt. The careful reader will note how each of these powerful personalities further expanded the inherent power of the Presidency, so that by the time Franklin Delano Roosevelt assumed office, he could on occasion take in his strong hands powers exceeded only by those of modern dictators. Now, in the present deadlock between Congress and President, we see the backswing of the pendulum. But the long-term trend is for state power to increase, and for the anarchy which has long been latent in American political life to yield slowly to the necessities of the modern world.

Mr. Wright Patman, one of the most energetic and useful members of the House of Representatives, has prepared *The American Government* to help puzzled but curious Americans to find out "how it works". It is arranged in the form of 1001 questions and answers (an earlier pamphlet, with the same title and the same author, was reviewed in *Parliamentary Affairs*, Summer, 1948: it contained 284 questions and answers. Extracts from this smaller pamphlet appear on pages 292-300 of this issue). Neither the layman nor the scholar will find it of much value. But persons dealing in a practical way with American political affairs may find it handy to have on the shelf, for they can find in it quick and simple answers to questions which might otherwise require the use of several reference books.

Only the scholar will be interested in the bibliography of Woodrow Wilson's writings and speeches. This work by

Laura Shearer Turnbull will help him if he wishes to engage in a study of the career of the President who first brought the United States into the mainstream of world politics.

DAVID C. WILLIAMS.

(*Mr. Williams is the London representative of Americans for Democratic Action.*)

Régime électoral et régime parlementaire en Grande-Bretagne. By Jacques Cadart. Cahier No. 5 of the National Foundation of Political Science. Librairie Armand Colin (103 Boulevard Saint-Michel, Paris, 5e).

We take a just, though sometimes an insular, pride in the working of our Parliamentary institutions. We know, from long tradition, that their success depends upon many unwritten conventions. It is accordingly a stimulating experience to read an account of our electoral and Parliamentary system as seen through the eyes of a detached foreign observer.

There is, incidentally, a flourishing Society of Comparative Legislation in Paris which celebrated its 80th Anniversary a few weeks ago.

M. Jacques Cadart, following a year's stay in this country and considerable research into our constitutional law and practice, has written as his thesis for the degree of *Docteur en Droit* of the University of Paris, an excellent analysis of our political system which deserves to be widely read by French students of the subject and can be cordially recommended to English readers.

The time has long past since Tocqueville could say in exasperation, but with some truth, of the English Constitution "elle n'existe point".

After an historical introduction, and tracing the successive extensions of the franchise since 1832, M. Cadart sets out clearly and with accuracy the present law relating to the registration of electors, the constituencies and distribution of seats, the qualification of electors and candidates, the system of voting and the actual conduct of an election. One learns *en passant* that canvassing is unknown in France. A description

of the way an election campaign is fought here concludes with the tribute: "The British electoral system is without doubt the most honest in the world".

The book contains much valuable information and several tables of statistics showing the results of the General Elections from 1910 down to date. It also includes tables relating to the age, education and occupation of Members of Parliament, classified according to their respective parties, covering both earlier and the present House of Commons.

Perhaps of greater interest to the general reader are the observations made on the merits and demerits of our Parliamentary system. The author stresses the extreme development of our party system, pointing out that the party label is more important than the personal qualities of a candidate.

There is a tendency to exaggerate the obedience of Members to their party whips (*les chefs de file, les chiens de garde du parti*). The regularity with which Members of the Government and Opposition parties habitually go into opposite lobbies does not make sufficient allowance for the freedom to vote according to one's conscience which is still exercised on both sides of the House. But if our party system tends, in the eyes of M. Cadart, to make an M.P. a mere yes-man ("*un oui-oui*") who does not vote according to his conscience, it has the compensating advantage that a Member does not vote according to his personal interests or the influences of small factions or groups. "L'intérêt du parti qui est à l'échelle nationale remplace les intérêts particuliers."

The subtleties of "the mandate" are analyzed in some detail, but not all would agree that our electoral system partakes as much of the nature of a plebiscite or referendum as of strict representation.

M. Cadart quite properly finds that the success of our Parliamentary institutions depends on the strength of our two-party system, in tracing the historical development of which he gives due weight to the significance of our having a rectangular meeting-place as distinct from the hemispherical Chambers common on the continent.

The "two-party" system, the "mandate" theory, and the

Government's right of dissolution are the three features which strike the continental observer as being the distinctive characteristics from which the British Constitution derives its strength. It is after all "un roc inébranlable mais cependant aménageable" in comparison with the shifting sands of many continental institutions.

ERIC FLETCHER, LL.D., (London), M.P.
(Mr. Fletcher is the Member of Parliament for Islington East. He is a Senator of London University and a member of the Public Works Loan Board.)

Town and Country Planning. By M. P. Fogarty.
 Hutchinson. 7s. 6d.

Before the war, two-fifths of the population of this country lived in seven great cities and groups of towns. How did they live? Engels wrote thus of the Manchester he knew in 1844: "The south bank of the Irk is here very steep and between fifteen and thirty feet high. On this declivitous hillside there are planted three rows of houses, of which the lowest rise directly out of the river, while the front walls of the highest stand on the crest of the hill in Long Millgate. Among them are mills on the river—in short, the method of construction is as crowded and disorderly here as in the lower part of Long Millgate. Right and left a multitude of covered passages lead from the main street into numerous courts, and he who turns in thither gets into a filth and disgusting grime, the equal of which is not to be found—especially in the courts which lead down to the Irk, and which contain unqualifiedly the most horrible dwellings which I have yet beheld. . . . Below it on the river there are several tanneries which fill the whole neighbourhood with the stench of animal putrefaction. Below Ducie Bridge the only entrance to most of the houses is by means of narrow, dirty stairs and over heaps of refuse and filth. . . . The view from this bridge, mercifully concealed from mortals by a parapet as high as a man, is characteristic for the whole district. At the bottom flows, or rather stagnates, the Irk, a narrow, coal-black, foul-smelling stream, full of debris and refuse,

which it deposits on the shallower right bank. In dry weather, a long string of the most disgusting, blackish-green slime pools are left standing on this bank from the depths of which bubbles of miasmatic gas constantly arise and give forth a stench unendurable even on the bridge forty or fifty feet above the surface of the stream. But besides this, the stream itself is checked every few paces by high weirs, behind which slime and refuse accumulate and rot in thick masses. Above the bridge are tanneries, bone-mills and gas-works, from which all drains and refuse find their way into the Irk, which receives further the contents of all the neighbouring sewers and privies. . . . Below the bridge you look upon the piles of debris, the refuse, filth and offal from the courts on the steep left bank. . . . On the lower right bank the background embraces the pauper burial-ground, the station of the Liverpool and Leeds railway, and, in the rear of this, the Workhouse, the 'Poor-Law Bastille' of Manchester, which, like a citadel, looks threateningly down from behind its high walls and parapets on the hill-top, upon the working people's quarter below." Engels' version is supported by other authorities of unimpeachable repute. Why did men and women so live? Is this sort of living—like our war-time journeys—really necessary? The Industrial Revolution, as Mr. Fogarty indicates in his able book, killed town planning stone dead. Such living is not necessary, and the most elementary planning precautions could have prevented it if the will had been there.

Mr. Fogarty has written a fascinating book and one of value. Among the many threads which go to form his skillfully woven tapestry of history, law, architecture, economics and human thought on the art of living, not the least interesting is the revelation of the slow and quite inevitable conversion of English political thinkers of all colours to a revolt against *laissez faire* in architectural layout, whatever merits it may have in any other sphere. Mr. Fogarty takes Birmingham as a not untypical example of leisured development of policy involving as is usual in such matters an infinite trail of human misery.

In 1870 Joseph Chamberlain's explosive years as Lord Mayor of Birmingham brought him a reputation as a town planner. It is interesting to recall that nearly ninety years ago, forty-five acres of town centre were bought up and cleared, and depressing to recall that following his entry into national politics nothing more happened for twenty years. We catch a glimpse of Neville Chamberlain, the arch Tory, in 1914 urging municipal land-ownership. How remote do Party political pre-conceptions become when we are up against the hard facts of a practical problem. Through the Birmingham story there is traced the inevitable swing of successive Councils, usually in the face of their political instincts. The most rampant advocates of individualism were brought at last sadly, painfully, slowly and often too late to realize that the soul of the city they genuinely loved could not thus be saved. Here, too, we see the negative conceptions of minimum space standards and compulsory drains for the poor and devil take the rest, steadily yielding to a more positive conception of the job to be done.

Mr. Fogarty describes in the early '20's the hatred of municipal enterprise which existed on the Council and quotes in contrast the 1943 resolution passed by a Council which still had a large Conservative majority, demanding that "all land developed as well as undeveloped should be brought under control and development rights vested in the State". St. Paul's conversion on the road to Damascus was more sudden, but hardly more complete.

It is a common belief that the countryside has suffered less than the town. This is debatable. The damage is only different in kind. To the eye there is indeed less squalor to sicken, but the economic consequences have been grave. Agriculture lost about 100 square miles of land every year before the war, and an area roughly equivalent to the whole of Gloucestershire was lost between 1927 and 1939 alone. Sites acquired for other purposes cut right across farm boundaries. Farms were left without farmhouses, and farmhouses were left without farms.

It is, however, easier to point out the defects of the past

than to indicate the shape of things to come. Discussion on the future of the small village is now active, as the recent controversy on Letcombe Bassett has shown. Mr. Fogarty is not entirely satisfying in his outline of the problem, nor does any clear solution emerge. There is, perhaps, no point where there appears more clearly the central problem which is touched by every aspect of town or country planning. How far may the traditional rights of the individual be sacrificed to the good of the community? From decade to decade, the pendulum swings. It is true that this dilemma is at the core of almost all political problems, but land and homes possess a quality which is distinctive. The attachment of men and women to the house, the patch, the acre, the village, is beyond the rational, and we do well to recognize this. There are losses for which money cannot compensate.

The rank of the individual's rights in a free society is of vital consequence and is not lightly to be reduced. No more is the right of the individual to liberty and happiness, which depend not a little on the social and architectural shape of the frame within which he and his family have their being. There can be no absolute answer to such problems and neither of the extremes of political dogma avails.

There is, however, one certainty. Claims, and sometimes hard claims, made on the individual by society will be the more readily accepted as just if he knows what the planners are playing at. The best advertisement of the planners is a flourishing community created by them such as may one day, it is hoped, be seen in some of the New Towns and redeveloped communities. As a prologue to that swelling theme, the Exhibition, the machinery of the public inquiry, the setting forth in the House of Commons of the case—and it is a convincing case—the broadcast discussion, the creation of non-party organizations such as the Town and Country Planning Association, the amenity societies such as the Council for the Preservation of Rural England, all perform invaluable work. These are useful tools in the educational process and to them Mr. Fogarty adds another, research and solid scholarship, coolly and

attractively presented. His work, pleasantly printed and embracing within a modest 200 pages a fair account of recent legislation up to and including the Town and Country Planning Act, 1947—a landmark in English social history—is comprehensive and readable by the non-expert. It deserves a wide public.

E. M. KING.

(Mr. King is Parliamentary Secretary, Ministry of Town and Country Planning, and a member of the Council of the Hansard Society.)

The Civil Service: Its Problems and Future. By E. N. Gladden. Second Edition. Staples. 10s. 6d.

The Organization of Economic Studies in Relation to the Problems of Government. By the Rt. Hon. Sir John Anderson. Cumberlege. 1s. 6d.

Public Administration to-day. By William A Robson. Stevens. 2s. 6d.

The Process and Organization of Government Planning. By John D. Millett. Columbia University Press. (London: Cumberlege). 14s.

The Civil Service is always fair game for criticism. It is a major national industry and, as its name implies, essentially the servant of the public. The public is therefore entitled to know what it is getting for its money, how its business is being looked after, what sort of people it is employing, and what they do with themselves. Indeed, the danger in a democracy is not that people may be too inquisitive about their public servants, but that they tend to take them far too much for granted.

For the Civil Service is an indispensable piece of democratic mechanism. It can of course be used by a dictator too, for any ruler must have a machine to carry out his will. But the efficiency and conscientiousness with which a civil service carries out its functions is one of the main safeguards of parliamentary government. Its powers of initiation are limited and it is not for it to decide whether a given course of action

is wise or foolish, necessary or unnecessary; but once the decision has been taken, for good or ill, it rests primarily upon the civil servants to see that its administration is as good as human forethought and ingenuity can provide. Moreover, it has a wealth—and weight—of experience which some Ministers find overwhelming but which a wise one knows how to use, and its opinions therefore have their effect at the policy-making stage as well.

All this has indeed been true for years. But the war brought profound changes and many of them have come to stay. Britain's temporary post-war insolvency—for that is what it is, no matter what polite names we may give it—would have meant a radical alteration in the functions of government, no matter what party had been in power. Theoretically of course we could have gone in for the old fashioned remedies, deflation, unemployment and the rest of it, but in practice that was impossible. A considerable degree of State intervention was necessary, and the only question was precisely how much. In any event therefore the scope of the Civil Service's work would have undergone a major change. It had to prepare itself, at comparatively short notice, to cover a far wider field than it had ever been expected to cover before and to do it at a pressure which had previously existed only in war-time. How is it getting on with the job? The four books here reviewed deal with only a tiny part of the vast field, but they pose many of the most pertinent questions including the peculiarly difficult one—How do you set about planning?

In *The Civil Service: its Problems and Future*, Dr. Gladden gives details of the Civil Service's development, and then deals at length with problems of recruitment, training, promotion, staff co-operation and general control. Dr. Gladden is himself a civil servant as well as an eminent student of public administration, and it is no surprise that his book, first published in 1945, has now appeared in a new edition. Its main aim is to set out a scheme of reform, especially in relation to the service's vast clerical organization, which will give the service greater flexibility in meeting its new needs. One of the

major objects of his proposed reforms is to recruit a greater proportion of the administrative grade from within the service. This reform is certainly overdue and cannot be much longer delayed. But it is a pity that Dr. Gladden deals only with the Home Civil Service and does not also cover the Foreign Service. There are more cobwebs to be blown away there, though much was done by the reforms introduced during the war. But some day no doubt the Home and Foreign Services will be amalgamated, and it will then no longer be necessary to spot our budding ambassadors at the age of 23 or 24; a wider range of choice for the top posts in the Foreign Service is badly needed; and civil servants would benefit as much as university professors from an occasional sabbatical year.

Sir John Anderson is one of the wisest of public servants, and his Stamp Memorial Lecture deals with a subject in which he has played an important part. The problem is more difficult than might appear at first sight. An economic section in a particular department is limited by the horizon of that department; a central economic section tends to become too theoretical and either to lose touch with administrative problems or else to poach on the preserves of others. It was under Sir John Anderson's guidance that a solution was found for this problem—a central economic organization, in which each department concerned with economic problems had an opportunity of collaborating effectively, responsible to a Minister whose business it was to see that the conclusions put forward received prompt and effective ministerial consideration. Since the lecture was delivered, the emergence of Sir Stafford Cripps as Minister for Economic Affairs as well as Chancellor has put the Treasury in the position of the central economic organization, but the principles of Sir John Anderson's argument are in no way weakened.

Public Administration Today is the Inaugural Lecture which Dr. William Robson gave on his appointment to the Chair of Public Administration at the London School of Economics. It asks questions rather than answers them, but they are the questions to which answers must soon be found in the course

of practical administration—e.g., the relations between Parliament and the Executive, and between central departments and local authorities; how the Civil Service and local government services can be improved; and the co-ordinating and supervisory functions of the Treasury over other departments. These problems, as Dr. Robson says, involve questions of personnel administration, of the distribution of powers, of methods of control, of organic relationship, of constitutional development. There are also the new problems raised by the nationalized industries, and the relations between the public corporations on the one hand, and Parliament, Ministers, consumers, workpeople and tax-payers on the other. This is certainly a formidable range of problems which will tax all the ingenuity of both university professors and those engaged in practical affairs. Fortunately the necessary co-operation is likely to be forthcoming; one of the by-products of war was the very close working relationship established between civil servants and university personnel; they learned to respect each other and to understand one another's problems.

This inter-relation between the academic and the practical approach to public administration is well illustrated in *The Process and Organization of Government Planning*. The author, John D. Millett of Columbia University, returned to academic life from war-time Government service and has written an academic treatise on the need for planning, who should do the planning, and how it should be organized. The book is published in the United States and is intended for American audiences. Much of it has no application in this country where the need for planning is much more taken for granted; and the American administrative machine is entirely different from ours. But the main principles are and must be common to all planning. The key is the relationship between the planner and the administrator, for the plan must be based on existing facts and must be capable of application in practice, and in both these vital matters the planner is dependent on the administrator. Any planning will be stillborn unless there exists the most intimate working relationship between the two. How precisely this is achieved,

and how the planners are given the authority they need, depends on the general administrative framework within which the work is being done.

G.W.

(G.W. has had experience in both the Foreign and Home Service.)

Reginald McKenna, 1863-1943. By Stephen McKenna.
Eyre & Spottiswoode. 16s.

Reginald McKenna achieved his first great ambition when he rowed bow in the Cambridge boat of 1887. He was destined to occupy more important seats in the political boat.

In 1906 he became Financial Secretary to the Treasury, with Asquith as Chancellor of the Exchequer. They worked together in various capacities until the Coalition ship foundered in December, 1916, Asquith being the Prime Minister and McKenna Chancellor of the Exchequer. For the last twenty-five years of his life McKenna was Director, later Chairman, of the Midland Bank, dying in harness.

With one exception, McKenna's promotions were of the "good boy" order. A clever drawing is reproduced of Asquith in cap and gown with "his favourite pupil". In 1907 he entered the Cabinet as President of the Board of Education, and a year later was appointed First Lord of the Admiralty. He had a great personal triumph in 1909 in securing against strong opposition the *Dreadnoughts* considered necessary for national security against the German peril. Nobody who reads McKenna's closely reasoned letters and memoranda would use the word "scare".

How were those ships to be used? What was to be the grand strategy of the imminent war, predicted by Fisher for 1914? The question was raised urgently in 1911 after the Agadir incident when McKenna was arraigned by Haldane, War Secretary, because the Navy was not ready at short notice to secure the safe transport of the Expeditionary Force to the Continent. McKenna's policy was definite, in accord with that of the First Sea Lord, Sir John Fisher. "To despatch British

troops to the front in a continental war would be an act of suicidal idiocy arising from the distorted view of war produced by Mr. Haldane's speeches" (p. 107). But the case was judged against the Admiralty and their war plans were scrapped.

The author records how Haldane and Churchill were immured by Asquith to discuss the position. We are regaled by Haldane's homily on Churchill, his virtues and vices as First Lord; and by the suggestion that Haldane should become First Lord for one year, organize a general staff at the Admiralty on the War Office model and get it into working order to carry out the new strategy; and that he should then return to the War Office, yielding the place to Churchill. According to Malcolm Thomson, Lloyd George was responsible for inducing Asquith to recommend Churchill as First Lord of the Admiralty. He exchanged offices with McKenna who was appointed Home Secretary—a promotion, but not of the "good boy" order.

McKenna was promoted Chancellor of the Exchequer in the Coalition Government of 1915, following the Dardanelles trouble. He produced two acceptable budgets before his forced resignation in December, 1916. Under war conditions he was obliged to haul down the Free Trade flag, imposing the famous "McKenna Duties".

What of the man himself? Of Irish Catholic origin, he was educated as a boy in France and Germany, an unusual background. A sound lawyer, he gave full attention to the brief in hand, proceeding from one brief to the next with complete equanimity; a political jay walker, he would not fight for himself, showing "a fundamental simplicity, at times surprising in a man of his shrewdness and experience", a simplicity "that left him unaware of intrigues and unprepared to meet them" (p. 84). The heart of a child! We may rest assured that it served as a passport to heaven.

A slim book, brilliantly written, fully documented, of absorbing interest, it is worth as much for the understanding of the political history of the period 1906-1916 as a shelf-full of war memoirs, an empyrean of blue books.

T. LLOYD HUMBERSTONE

The Laying of the Foundation Stone of the New Chamber of the House of Commons. His Majesty's Stationery Office.

Readers of *Parliamentary Affairs* will remember the account of the laying of the foundation stone of the new Chamber of the House of Commons which appeared in our Autumn 1948 issue. An official record of the proceedings has now been printed for the House by order of the Speaker. It is a beautifully produced volume, printed on fine paper by the Curwen Press, and illustrated by ten photographs reproduced by collotype by the Chiswick Press, the printers of *Parliamentary Affairs*. By order of the Speaker twenty-four copies of the book were printed on hand-made paper for presentation to His Majesty the King, the Library of the House of Commons, and those who took part in the ceremony.

Many of those who cherish the unique contribution of this country to the institution of parliament and the cause of liberty will want to secure this volume. Unfortunately, it has not been generally published, but there is a limited number of copies available for sale. Priority will be given to parliamentary or other libraries at home and overseas. The price is 15s. 9d. including postage, and orders should be sent to P.O. Box 569, London, S.E.1.

NOTE

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